retary with whatever information he might require in administering sections 1400 to 1400k of this title.

Section 1400h, Pub. L. 85–441, title II, §205, June 4, 1958, 72 Stat. 175, provided for payments to States of funds for benefits under sections 1400 to 1400k of this title, posting of requisite bonds in connection therewith, and liability of certifying and disbursing officers.

Section 1400i, Pub. L. 85–441, title II, §206, June 4, 1958, 72 Stat. 176, provided for denial of benefits under sections 1400 to 1400k of this title to aliens employed by Communist governments or organizations.

Section 1400j, Pub. L. 85–441, title II, §207, June 4, 1958, 72 Stat. 176, authorized promulgation of rules and regulations by Secretary to carry out provisions of sections 1400 to 1400k of this title.

Section 1400k, Pub. L. 85–441, title II, §208, June 4, 1958, 72 Stat. 176, authorized appropriation of funds necessary to carry out sections 1400 to 1400k of this title.

Section 1400*l*, Pub. L. 87–6, §2, Mar. 24, 1961, 75 Stat. 8, defined ''compensation period'', ''first claim'', ''State unemployment compensation'', ''Secretary'', ''State'', ''State agency'', ''State law'', ''temporary extended unemployment compensation'', ''title XV'', and ''week'' as used in sections 1400*l* to 1400v of this title.

Section 1400m, Pub. L. 87–6, §3, Mar. 24, 1961, 75 Stat. 8, provided for payment of temporary extended unemployment compensation benefits under sections 1400*l* to 1400v of this title for any period of unemployment between March 24, 1961, and June 30, 1962.

Section 1400n, Pub. L. 87–6, §4, Mar. 24, 1961, 75 Stat. 9, provided for reimbursement by the Federal government of any State unemployment compensation paid under sections 1400*l* to 1400v of this title in excess of formula amount.

Section 1400*o*, Pub. L. 87–6, §5, Mar. 24, 1961, 75 Stat. 9, placed limitations on total payments and reimbursements under sections 1400*l* to 1400v of this title.

Section 1400p, Pub. L. 87–6, §6, Mar. 24, 1961, 75 Stat. 10, set out the covered period for benefits under sections 1400*l* to 1400v of this title as Mar. 24, 1961, to June 30, 1962.

Section 1400q, Pub. L. 87–6, §7, Mar. 24, 1961, 75 Stat. 10, covered agreements with States for payment and reimbursement of temporary unemployment compensation under sections 1400*l* to 1400v of this title, amendment, suspension, or termination of such an agreement, denial of benefits, review of determinations by State agencies, and reduction of benefits in certain cases.

Section 1400r, Pub. L. 87–6, §8, Mar. 24, 1961, 75 Stat. 12, provided for payment of benefits under sections 1400*l* to 1400v of this title to veterans and Federal employees.

Section 1400s, Pub. L. 87–6, §9, Mar. 24, 1961, 75 Stat. 12, set out penalties for making false statements or representations in connection with benefits under sections 1400*l* to 1400v of this title and provided for recovery of overpayments.

Section 1400t, Pub. L. 87–6, §10, Mar. 24, 1961, 75 Stat. 13, required each State to furnish Secretary with information required to administer program under sections 1400*l* to 1400v of this title.

Section 1400u, Pub. L. 87–6, §11, Mar. 24, 1961, 75 Stat. 13, made provision for payments to States under sections 1400*l* to 1400v of this title, certification by Secretary to Secretary of the Treasury for payment of sums to each State, surety bonds, liability of certifying and disbursing officers, and costs of administration.

Section 1400v, Pub. L. 87–6, §12, Mar. 24, 1961, 75 Stat. 14, authorized promulgation by Secretary of rules and regulations necessary to carry out sections 1400*l* to 1400v of this title.

CHAPTER 8—LOW-INCOME HOUSING

Sec.

1401 to 1404. Omitted.

1404a. Secretary of Housing and Urban Development; right to sue; expenses.

1405, 1406. Omitted.

1406a. Expenses of management and operation of transferred projects as nonadministrative; payment.

1406b. Expenses of uncompensated advisers serving United States Housing Authority away from home.

1406c to 1433. Omitted or Repealed.

1434. Records; contents; examination and audit.

1435. Access to books, documents, etc., for purpose of audit.

1436. Repealed.

1436a. Restriction on use of assisted housing by non-resident aliens.

(a) Conditions for assistance.

(b) ''Financial assistance'' defined.

(c) Preservation of families; students.

(d) Conditions for provision of financial assistance for individuals.

(e) Regulatory actions against entities for erroneous determinations regarding eligibility based upon citizenship or immigration status.

(f) Verification system; liability of State or local government agencies or officials; prior consent agreements, court decrees or court orders unaffected.

(g) Reimbursement for costs of implementation.

(h) ''Applicable Secretary'' defined.

(i) Verification of eligibility.

1436b. Financial assistance in impacted areas.

1436c. Insurance for public housing agencies and Indian housing authorities.

1436d. Consultation with affected areas in settlement of litigation.

SUBCHAPTER I—GENERAL PROGRAM OF ASSISTED HOUSING

1437. Declaration of policy and public housing agency organization.

(a) Declaration of policy.

(b) Public housing agency organization.

1437a. Rental payments.

(a) Families included; rent options; minimum amount; occupancy by police officers and over-income families.

(b) Definition of terms under this chapter.

(c) Definition of terms used in reference to public housing.

(d) Disallowance of earned income from rent determinations.

(e) Individual savings accounts.

(f) Availability of income matching information.

1437a–1. Repealed.

1437b. Loans and commitments to make loans for low-income housing projects.

(a) Authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency.

(b) Issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of the Treasury.

(c) Public and Indian housing financing reforms.

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1437c. Contributions for low-income housing projects.
(a) Contract authorization; amounts; use as security for obligations of public housing agency; use of existing structures.
(b) Maximum amount of contributions; regulations; criteria for rates of contribution.
(c) Limitation on aggregate contractual contributions; contracts for preliminary loans; payments of annual contributions; limitations on specific authorities.
(d) Scope of contracts for loans or annual contributions.
(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions; notice.
(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans.
(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception.
(h) Audits.
(i) Prohibition on use of funds.
1437c–1. Public housing agency plans.
(a) 5-year plan.
(b) Annual plan.
(c) Procedures.
(d) Contents.
(e) Resident advisory board.
(f) Notice and hearing.
(g) Amendments and modifications to plans.
(h) Submission of plans.
(i) Review and determination of compliance.
(j) Troubled and at-risk PHAs.
(k) Streamlined plan.
(*l*) Compliance with plan.
1437d. Contract provisions and requirements; loans and annual contributions.
(a) Conditions; elevators.
(b) Limitation on development costs.
(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management.
(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission.
(e) Repealed.
(f) Housing quality requirements.
(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations.
(h) New construction contracts.
(i) Reserve fund; major repairs.
(j) Performance indicators for public housing agencies.
(k) Administrative grievance procedure regulations: grounds of adverse action, hearing, examination of documents, representation, evidence, decision; judicial hearing; eviction and termination procedures.
(*l*) Leases; terms and conditions; maintenance; termination.
(m) Reporting requirements; limitation.
(n) Notice to post office regarding eviction for criminal activity.
(*o*) Public housing assistance for foster care children.
(p) Repealed.
(q) Availability of records.
(r) Site-based waiting lists.
(s) Authority to require access to criminal records.
(t) Obtaining information from drug abuse treatment facilities.
(u) Certification and confidentiality.
1437e. Designated housing for elderly and disabled families.
(a) Authority to provide designated housing.
(b) Standards regarding evictions.
(c) Relocation assistance.
(d) Required plan.
(e) Review of plans.
(f) Effectiveness.
(g) Inapplicability of Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970.
1437f. Low-income housing assistance.
(a) Authorization for assistance payments.
(b) Other existing housing programs.
(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments.
(d) Required provisions and duration of contracts for assistance payments; waiver of limitation.
(e) Restrictions on contracts for assistance payments.
(f) Definitions.
(g) Regulations applicable for implementation of assistance payments.
(h) Nonapplicability of inconsistent provisions to contracts for assistance payments.
(i) Receipt of assistance by public housing agency under other law not to be considered.
(j) Repealed.
(k) Verification of income.
(*l*) to (n) Repealed.
(*o*) Voucher program.
(p) Shared housing for elderly and handicapped.
(q) Administrative fees.
(r) Portability.
(s) Prohibition of denial of certificates and vouchers to residents of public housing.

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(t) Enhanced vouchers.
(u) Assistance for residents of rental rehabilitation projects.
(v) Extension of expiring contracts.
(w) Repealed.
(x) Family unification.
(y) Homeownership option.
(z) Termination of section 1437f contracts and reuse of recaptured budget authority.
(aa) Omitted.
(bb) Transfer, reuse, and rescission of budget authority.
(cc) Law enforcement and security personnel.
(dd) Tenant-based contract renewals.
(ee) Certification and confidentiality.

1437*g*. Public housing Capital and Operating Funds.
(a) Merger into Capital Fund.
(b) Merger into Operating Fund.
(c) Allocation amount.
(d) Capital Fund.
(e) Operating Fund.
(f) Negotiated rulemaking procedure.
(g) Limitations on use of funds.
(h) Technical assistance.
(i) Eligibility of units acquired from proceeds of sales under demolition or disposition plan.
(j) Penalty for slow expenditure of capital funds.
(k) Emergency reserve and use of amounts.
(*l*) Treatment of nonrental income.
(m) Provision of only capital or operating assistance.
(n) Treatment of public housing.

1437h. Implementation of provisions by Secretary.
(a) Preparation and submission of annual budget program; maintenance of accounts; audit by Government Accountability Office.
(b) Availability of receipts and assets.
(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services.

1437i. Obligations of public housing agencies; contestability; full faith and credit of United States pledged as security; tax exemption.

1437j. Labor standards and community service requirement.
(a) Payment of wages prevailing in locality.
(b) Exception for volunteers.
(c) Community service requirement.
(d) Treatment of income changes resulting from welfare program requirements.
(e) Lease provisions.
(f) Treatment of income.
(g) Definition.

1437j–1. Repealed.

1437k. Consortia, joint ventures, affiliates, and subsidiaries of public housing agencies.
(a) Consortia.
(b) Joint ventures.

1437*l*. Repealed.

1437m. Payment of non-Federal share.

1437n. Eligibility for assisted housing.
(a) Income eligibility for public housing.
(b) Income eligibility for tenant-based section 1437f assistance.
(c) Income eligibility for project-based section 1437f assistance.
(d) Establishment of different standards.
(e) Repealed.
(f) Ineligibility of individuals convicted of manufacturing or producing methamphetamine on the premises.

1437*o*. Repealed.

1437p. Demolition and disposition of public housing.
(a) Applications for demolition and disposition.
(b) Disapproval of applications.
(c) Resident opportunity to purchase in case of proposed disposition.
(d) Replacement units.
(e) Consolidation of occupancy within or among buildings.
(f) De minimis exception to demolition requirements.
(g) Uniform Relocation and Real Property Acquisition Act.
(h) Relocation and replacement.

1437q. Financing limitations.

1437r. Public housing resident management.
(a) Purpose.
(b) Program requirements.
(c) Assistance amounts.
(d) Waiver of Federal requirements.
(e) Direct provision of operating and capital assistance.
(f), (g) Repealed.
(h) Applicability.

1437s. Public housing homeownership and management opportunities.
(a) Homeownership opportunities in general.
(b) Protection of nonpurchasing families.
(c) Financial assistance for public housing agencies.
(d) Additional homeownership and management opportunities.
(e) Regulations.
(f) Repealed.
(g) Limitation.

1437t. Authority to convert public housing to vouchers.
(a) Authority.
(b) Conversion assessment.
(c) Criteria for implementation of conversion plan.
(d) Conversion plan requirement.
(e) Review and approval of conversion plans.
(f) Tenant-based assistance.

1437u. Family Self-Sufficiency program.
(a) Purpose.
(b) Establishment of program.
(c) Contract of participation.
(d) Incentives for participation.
(e) Effect of increases in family income.

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(f) Program coordinating committee.
(g) Action plan.
(h) Allowable public housing agency administrative fees and costs.
(i) Public housing agency incentive award allocation.
(j) On-site facilities.
(k) Flexibility.
(*l*) Reports.
(m) GAO report.
(n) Definitions.
(*o*) Effective date and regulations.

1437v. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for projects.
(a) Purposes.
(b) Grant authority.
(c) Contribution requirement.
(d) Eligible activities.
(e) Application and selection.
(f) Cost limits.
(g) Disposition and replacement.
(h) Administration by other entities.
(i) Withdrawal of funding.
(j) Definitions.
(k) Grantee reporting.
(*l*) Annual report.
(m) Funding.
(n) Grants for assisting affordable housing developed through main street projects in smaller communities.
(*o*) Sunset.

1437w. Transfer of management of certain housing to independent manager at request of residents.
(a) Authority.
(b) Request for transfer.
(c) Capital and operating assistance.
(d) Contract between Secretary and manager.
(e) Compliance with public housing agency plan.
(f) Demolition and disposition by manager.
(g) Limitation on PHA liability.
(h) Definitions.

1437x. Environmental reviews.
(a) In general.
(b) Procedure.
(c) Certification.
(d) Approval by States.

1437y. Provision of information to law enforcement and other agencies.

1437z. Exchange of information with law enforcement agencies.

1437z–1. Civil money penalties against section 1437f owners.
(a) In general.
(b) Violations of housing assistance payment contracts for which penalty may be imposed.
(c) Agency procedures.
(d) Judicial review of agency determination.
(e) Remedies for noncompliance.
(f) Settlement by Secretary.
(g) Deposit of penalties.
(h) Definitions.

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1437z–2. Public housing mortgages and security interests.
(a) General authorization.
(b) Terms and conditions.
(c) No Federal liability.

1437z–3. Pet ownership in public housing.
(a) Ownership conditions.
(b) Reasonable requirements.
(c) Pet ownership in public housing designated for occupancy by elderly or handicapped families.
(d) Regulations.

1437z–4. Resident homeownership programs.
(a) In general.
(b) Participating units.
(c) Eligible purchasers.
(d) Right of first refusal.
(e) Protection of nonpurchasing residents.
(f) Financing and assistance.
(g) Downpayment requirement.
(h) Ownership interests.
(i) Resale.
(j) Net proceeds.
(k) Homeownership assistance.
(*l*) Inapplicability of disposition requirements.

1437z–5. Required conversion of distressed public housing to tenant-based assistance.
(a) Identification of units.
(b) Consultation.
(c) Plan for removal of units from inventories of PHA's.
(d) Conversion to tenant-based assistance.
(e) Cessation of unnecessary spending.
(f) Use of budget authority.
(g) Removal by Secretary.
(h) Administration.

1437z–6. Services for public and Indian housing residents.
(a) In general.
(b) Eligible activities.
(c) Funding distribution.
(d) Matching requirement.
(e) Funding for resident organizations.

1437z–7. Mixed-finance public housing.
(a) Authority.
(b) Assistance.
(c) Compliance with public housing requirements.
(d) Mixed-finance projects.
(e) Structure of projects.
(f) Taxation.
(g) Use of savings.
(h) Effect of certain contract terms.

SUBCHAPTER II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

1437aa to 1437ee. Repealed.

1437ff. Transferred.

SUBCHAPTER II–A—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

1437aaa. Program authority.
(a) In general.
(b) Authority to reserve housing assistance.

1437aaa–1. Planning grants.
(a) Grants.

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(b) Eligible activities.
(c) Application.
(d) Selection criteria.
1437aaa–2. Implementation grants.
(a) Grants.
(b) Eligible activities.
(c) Matching funding.
(d) Application.
(e) Selection criteria.
(f) Location within participating jurisdictions.
(g) Approval.
1437aaa–3. Homeownership program requirements.
(a) In general.
(b) Affordability.
(c) Plan.
(d) Acquisition and rehabilitation limitations.
(e) Financing.
(f) Housing quality standards.
(g) Repealed.
(h) Protection of non-purchasing families.
1437aaa–4. Other program requirements.
(a) Sale by public housing agency to applicant or other entity required.
(b) Preferences.
(c) Cost limitations.
(d) Annual contributions.
(e) Amounts from Operating Fund allocation.
(f) Use of proceeds from sales to eligible families.
(g) Restrictions on resale by homeowners.
(h) Third party rights.
(i) Dollar limitation on economic development activities.
(j) Timely homeownership.
(k) Capability of resident management corporations and resident councils.
(*l*) Records and audit of recipients of assistance.
1437aaa–5. Definitions.
1437aaa–6. Relationship to other homeownership opportunities.
1437aaa–7. Limitation on selection criteria.
1437aaa–8. Annual report.

SUBCHAPTER II–B—HOME RULE FLEXIBLE GRANT DEMONSTRATION

1437bbb. Purpose.
1437bbb–1. Flexible grant program.
(a) Authority and use.
(b) Period of participation.
(c) Participating jurisdictions.
1437bbb–2. Program allocation and covered housing assistance.
(a) Program allocation.
(b) Covered housing assistance.
1437bbb–3. Applicability of requirements under programs for covered housing assistance.
(a) In general.
(b) Number of families assisted.
(c) Protection of recipients.
(d) Effect on ability to compete for other programs.
1437bbb–4. Program requirements.
(a) Applicability of certain provisions.
(b) Compliance with assistance plan.
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1437bbb–5. Application.
(a) In general.
(b) Review, approval, and performance standards.
(c) Status of PHAs.
(d) PHA plans.
1437bbb–6. Training.
1437bbb–7. Accountability.
(a) Maintenance of records.
(b) Reports.
(c) Access to documents by Secretary and Comptroller General.
(d) Performance review and evaluation.
1437bbb–8. Definitions.
1437bbb–9. Termination and evaluation.
(a) Termination.
(b) Evaluation.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

1438. Repealed.
1439. Local housing assistance plan.
(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions.
(b) Housing assistance applications subject to procedures.
(c) Repealed.
(d) Allocation and reservation of housing assistance funds; purposes; prohibited reallocation of unutilized funds; enumerated uses for retained funds; competition for reservation and obligation of funds.
(e) Assistance payments for properties in Jefferson County, Texas.
1440. State housing finance and development agencies.
(a) Statement of purpose; participation by private and nonprofit developers in activities assisted.
(b) Determination of eligibility for assistance; definitions.
(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed.
(d) Requirements for guaranteed obligations.

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(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of the Treasury; composition; availability, issuance of obligations to Secretary of the Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of the Treasury of obligations; payment of expenses and charges.

(f) Technical assistance to agencies for planning and execution of development activities.

(g) Labor standards.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies.

§§ 1401 to 1404. Omitted

CODIFICATION

Sections 1401 to 1404 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1401, acts Sept. 1, 1937, ch. 896, §1, 50 Stat. 888; July 15, 1949, 338, title III, §307(a), 63 Stat. 429; Sept. 23, 1959, Pub. L. 86–372, title V, §501, 73 Stat. 679; Aug. 1, 1968, Pub. L. 90–448, title II, §206(a), 82 Stat. 504; Dec. 31, 1970, Pub. L. 91–609, title II, §211, 84 Stat. 1779, set out declaration of policy. See section 1437 of this title.

Section 1402, acts, Sept. 1, 1937, ch. 896, §2, 50 Stat. 888; July 15, 1949, ch. 338, title III, §§302(b), 304(c), (i), 306, 307(b), 63 Stat. 424, 425, 429; Oct. 26, 1951, ch. 577, §1, 65 Stat. 647; June 30, 1953, 170, §24(c), 67 Stat. 128; Aug. 7, 1956, ch. 1029, title IV, §404(a), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title III, §307, title IV, §401(a), 71 Stat. 301; Sept. 23, 1959, Pub. L. 86–372, title V, §§502, 503(a), 504, 73 Stat. 680; June 30, 1961, Pub. L. 87–70, title II, §202, 75 Stat. 163; Sept. 2, 1964, Pub. L. 88–560, title II, §203(d), title IV, §401(a), 78 Stat. 784, 794; Aug. 10, 1965, Pub. L. 89–117, title I, §§103(b), 104, 79 Stat. 457; Aug. 1, 1968, Pub. L. 90–448, title II, §209(a), 82 Stat. 505; Dec. 24, 1969, Pub. L. 91–152, title II, §213(a), title IV, §403(a), 83 Stat. 389, 395; Dec. 31, 1970, Pub. L. 91–609, title II, §208(a), title IX, §903(c), 84 Stat. 1778, 1808; Dec. 22, 1971, Pub. L. 92–213, §9, 85 Stat. 776, defined applicable terms. See section 1437a of this title.

Section 1403, acts Sept. 1, 1937, ch. 896, §3, 50 Stat. 889; May 25, 1967, Pub. L. 90–19, §2(b), 81 Stat. 20; Aug. 1, 1968, Pub. L. 90–448, title XVII, §1719(a), 82 Stat. 610, created the United States Housing Authority in the Department of Housing and Urban Development.

Section 1404, acts Sept. 1, 1937, ch. 896, §4, 50 Stat. 889; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; May 25, 1967, Pub. L. 90–19, §2(a), (c), 81 Stat. 19, 20, provided for assistance of officers, etc., of other agencies and transfer of property to the Authority.

EFFECTIVE DATE OF 1969 AMENDMENT; APPLICABILITY

Section 213(b) of Pub. L. 91–152 provided that the rents fixed by public housing agencies not exceed one-fourth of a low-rent housing tenant's income be effective not later than ninety days after Dec. 24, 1969, and that the requirements not apply in any case in which the Secretary of Housing and Urban Development determined that limiting the rent of any tenant or class of tenants would have resulted in a deduction in the amount of welfare assistance which would otherwise have been provided to the tenant or class of tenants by a public agency.

§1404a. Secretary of Housing and Urban Development; right to sue; expenses

The Secretary of Housing and Urban Development may sue and be sued only with respect to its functions under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], and title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, as amended [42 U.S.C. 1501 et seq.]. Funds made available for carrying out the functions, powers, and duties of the Secretary of Housing and Urban Development (including appropriations therefor, which are authorized) shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary of Housing and Urban Development. Notwithstanding any other provisions of law except provisions of law enacted after August 10, 1948 expressly in limitation hereof, the Secretary of Housing and Urban Development, or any State or local public agency administering a low-rent housing project assisted pursuant to the United States Housing Act of 1937 or title II of Public Law 671, Seventy-sixth Congress, approved June 38, 1940, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to said Acts, the Secretary of Housing and Urban Development is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service.

(Aug. 10, 1948, ch. 832, title V, §502(b), 62 Stat. 1284; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 90–19, §5(d)(4)–(7), May 25, 1967, 81 Stat. 21; Pub. L. 100–242, title V, §570(a)(2), Feb. 5, 1988, 101 Stat. 1949.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Public Law 671, Seventy-sixth Congress, approved June 28, 1940, referred to in text, is act June 28, 1940, ch. 440, 54 Stat. 676, as amended. Title II of that Act is classified generally to subchapter I (§1501 et seq.) of chapter 9 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Housing Act of 1948, and not as part of the United States Housing Act of 1937 which comprises this chapter.

Section 502 of act Aug. 10, 1948, is classified generally to section 1701c of Title 12, Banks and Banking.

AMENDMENTS

1988—Pub. L. 100–242 substituted "Secretary of Housing and Urban Development" for "United States Housing Authority" in three places and for "Authority" in two places.

1967—Pub. L. 90–19 substituted ''United States Housing Authority'' for ''Public Housing Administration'' wherever appearing in first and fourth sentences, ''Authority'' for ''Administration'' wherever appearing in third sentence, and ''may sue'' for ''shall sue'' in first sentence, and struck out former second sentence authorizing the Public Housing Commissioner to appoint necessary officers and employees subject to the civil-service and classification laws, to delegate his functions and powers, and to make rules and regulations, respectively.

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§§ 1405, 1406. Omitted

Section 1405, acts Sept. 1, 1937, ch. 896, § 5, 50 Stat. 890; May 25, 1967, Pub. L. 90–19, § 2(d), (e), 81 Stat. 20, which enumerated miscellaneous powers and functions of the Authority, was omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1406, acts Sept. 1, 1937, ch. 896, § 6, 50 Stat. 890; July 15, 1949, ch. 338, title III, § 307(c), 63 Stat. 429; Oct. 31, 1951, ch. 654, § 1(112), 65 Stat. 705; May 25, 1967, Pub. L. 90–19, § 2(a), 81 Stat. 19, which enumerated financial provisions applicable to the Authority, was omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. Subsec. (b) of this section, which provided that section 5 of title 41 not apply to contracts for services or to purchases of supplies except when the aggregate amount involved was less than $300, was repealed by act Oct. 31, 1951, ch. 654, § 1(112), 65 Stat. 705.

§ 1406a. Expenses of management and operation of transferred projects as nonadministrative; payment

On and after May 10, 1939 all necessary expenses in connection with the management and operation of projects transferred to the Authority by Executive Order Numbered 7732 of October 27, 1937, as modified by Executive Order Numbered 7839 of March 12, 1938, may be considered as nonadministrative expenses, notwithstanding the provisions of section 712a of title 15, and be paid from the rents received from each transferred project.

(May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1129.

TRANSFER OF FUNCTIONS

For transfer of functions of United States Housing Authority to Secretary of Housing and Urban Development, see note set out under section 1404a of this title.

Executive Order No. 7732, Oct. 27, 1937, 2 FR 2324, 44 CFR 201.11, effective Nov. 1, 1937, transferred to the United States Housing Authority all right, interest, and title held by the Federal Emergency Administration of Public Works in any housing or slum-clearance projects constructed or in the process of construction on Sept. 1, 1937.

§ 1406b. Expenses of uncompensated advisers serving United States Housing Authority away from home

On and after May 10, 1939, the funds made available for administrative expenses of the United States Housing Authority shall be available for the payment, when specifically authorized by the Administrator, of actual transportation expenses and not to exceed $10 per diem in lieu of subsistence and other expenses to persons serving, while away from their homes, without other compensation from the United States, in an advisory capacity to the Authority.

(May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1128.

TRANSFER OF FUNCTIONS

For transfer of functions of United States Housing Authority and Administrator to Secretary of Housing and Urban Development, see note set out under section 1404a of this title.

§§ 1406c to 1411a. Omitted

CODIFICATION

Section 1406c, act June 27, 1942, ch. 450, § 1, 56 Stat. 410, which related to expenses for construction advisers on non-Federal projects, was from the Independent Offices Appropriation Act, 1943, and was not repeated in subsequent appropriation acts. Prior similar provisions were contained in acts Apr. 5, 1941, ch. 40, § 1, 55 Stat. 111; Apr. 18, 1940, ch. 107, § 1, 54 Stat. 130.

Section 1407, acts Sept. 1, 1937, ch. 896, § 7, 50 Stat. 891; Aug. 2, 1954, ch. 649, title VIII, § 802(d), 68 Stat. 643; May 25, 1967, Pub. L. 90–19, § 2(f), 81 Stat. 20, provided for publication of information and submission of annual report by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1408, act Sept. 1, 1937, ch. 896, § 8, 50 Stat. 891, authorized promulgation of rules and regulations by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1409, acts Sept. 1, 1937, ch. 896, § 9, 50 Stat. 891; July 15, 1949, ch. 338, title III, § 304(c), (d), 63 Stat. 425; Dec. 24, 1969, Pub. L. 91–152, title II, § 211, 83 Stat. 388, authorized loans for low-rent-housing and slum clearance projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437b of this title.

Section 1410, acts Sept. 1, 1937, ch. 896, § 10, 50 Stat. 891; June 21, 1938, ch. 554, title VI, § 601, 52 Stat. 820; July 15, 1949, ch. 338, title III, §§ 302(a), 304(a), (c), (e), (f), 305, 307(d), 63 Stat. 423 to 427, 430; Aug. 2, 1954, ch. 649, title IV, §§ 401(1), (2), 402, 403, 405, 406, 68 Stat. 630; June 30, 1955, ch. 251, § 3, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 108(b), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, §§ 401(a), 404(b), 70 Stat. 1103, 1104; Sept. 23, 1959, Pub. L. 86–372, title V, §§ 505(a), 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§ 203, 204(a), (b), 205, 206(b), (c), 75 Stat. 163 to 165; Sept. 2, 1964, Pub. L. 88–560, title IV, §§ 401(b), 402 to 404, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title V, §§ 501 to 504, 507(b)(1), (2); 79 Stat. 486 to 488; May 25, 1967, Pub. L. 90–19, § 2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§ 203(a), 206(b), 209(b), 82 Stat. 503, 505; Dec. 24, 1969, Pub. L.

91–152, title II, §§212, 214, 217(b), 83 Stat. 388–390; Dec. 31, 1970, Pub. L. 91–609, title II, §§202, 203, 204(a)(2), 210, 84 Stat. 1776 to 1778; Oct. 18, 1972, Pub. L. 92–503, §3 (1) to (3), 86 Stat. 906; Oct. 2, 1973, Pub. L. 93–117, §2, 87 Stat. 422, authorized annual contributions in assistance of low rentals for housing projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437c of this title. Subsec. (j) of this section, which related to self-liquidation of projects, was repealed by Pub. L. 87–70, title II, §206(c), June 30, 1961, 75 Stat. 164.

Section 1411, acts Sept. 1, 1937, ch. 896, §11, 50 Stat. 893; July 15, 1949, ch. 338, title III, §307(d), 63 Stat. 430, authorized capital grants to public housing agencies in assistance of low rentals, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1411a, act July 31, 1953, ch. 302, title I, §101, 67 Stat. 306, which related to prohibition of projects in localities where rejected by public vote or governing body, was from the Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts.

RETROACTIVE EFFECT OF REPEAL OF RIGHTS OF UNITED STATES RELATING TO SELF-LIQUIDATION OF PROJECTS

Section 206(c) of Pub. L. 87–70, as amended by Pub. L. 93–383, title II, §205, Aug. 22, 1974, 88 Stat. 668, provided in part that: ''The Secretary of Housing and Urban Development is authorized to agree with a public housing agency to the amendment of any annual contributions contract containing the provision prescribed in section 10(j) of the United States Housing Act of 1937 [subsec. (j) of section 1410 of this title] (as in effect prior to the enactment of the Housing and Community Development Act of 1974) so as to delete such provision and waive any rights of the United States that are accrued or may accrue under such provision.''

§ 1411b. Repealed. Aug. 7, 1956, ch. 1029, title IV, § 401(b), 70 Stat. 1103

Section, acts July 5, 1952, ch. 578, title I, §101, 66 Stat. 403; July 31, 1953 ch. 302 title I, §101, 67 Stat. 307, limited number of housing units to be constructed during fiscal year.

§ 1411c. Omitted

CODIFICATION

Section, act July 31, 1953, ch. 302, title I, §101, 67 Stat. 307, which barred subversives from occupancy of housing units and which provided for enforcement of such prohibition and affect of such prohibition on loans and contributions by the Public Housing Administration, was from the Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts.

§ 1411d. Repealed. Pub. L. 93–383, title II, § 204, Aug. 22, 1974, 88 Stat. 668

Section, act Aug. 2, 1954, ch. 649, title VIII, §815, 68 Stat. 647, required submission of specifications by applicants prior to award of any contract for construction of a project and submission of data with respect to acquisition of land prior to authorization to purchase such land.

§§ 1412 to 1416. Omitted

Section 1412, acts Sept. 1, 1937, ch. 896, §12, 50 Stat. 894; Apr. 20, 1950, ch. 94, title II, §205(b), 64 Stat. 73; Aug. 7, 1956, ch. 1029, title IV, §405, 70 Stat. 1104; Aug. 10, 1965, Pub. L. 89–117, title V, §505, 79 Stat. 487, authorized disposal of low-rent-housing projects transferred to or acquired by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413, acts Sept. 1, 1937, ch. 896, §13, 50 Stat. 894; July 15, 1949, ch. 338, title III, §307(e), 63 Stat. 430; May 25, 1967, Pub. L. 90–19, §2(g), 81 Stat. 20, enumerated powers of the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413a, acts July 31, 1947, ch. 418, §2, 61 Stat. 705; Feb. 27, 1948, ch. 77, §3, 62 Stat. 37; Mar. 30, 1948, ch. 161, title III, §304, 62 Stat. 100, postponed until April 1, 1949, the institution of any eviction actions or proceedings in connection with publicly operated housing accommodations.

Section 1414, acts Sept. 1, 1937, ch. 896, §14, 50 Stat. 895; July 15, 1949, 338, title III, §304(g), 63 Stat. 426; Dec. 24, 1969, Pub. L. 91–152, title II, §213(c), 83 Stat. 389, authorized modification, amendment, or supersedure of contracts by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437c of this title.

Section 1415, acts Sept. 1, 1937, ch. 896, §15, 50 Stat. 895; July 31, 1947, ch. 418, §1, 61 Stat. 704; July 15, 1949, ch. 338, title III, §§301, 303, 304(j), 63 Stat. 422, 424, 427; Aug. 2, 1954, ch. 649, title IV, §401(3), (4), 68 Stat. 631; Aug. 7, 1956, ch. 1029, title IV, §404(c), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title IV, §401(b), (c), 71 Stat. 302; Sept. 23, 1959. Pub. L. 86–372, title V, §§503(b), 506, 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§204(b), 205(b), 206(a), 75 Stat. 164; Sept. 2, 1964, Pub. L. 88–560, title IV, §§401(c), 405(a), 406, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title IV, §404(c)(2), title V, §§506, 507(a), (b)(3), 79 Stat. 486–488; May 25, 1967, Pub. L. 90–19, §2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§204, 205, 207, 82 Stat. 503, 504; Dec. 24, 1969, Pub. L. 91–152, title II, §§215, 216, 83 Stat. 389, 390; Dec. 31, 1970, Pub. L. 91–609, title II, §§207, 209(a), title IX, §903(d), 84 Stat. 1777, 1778, 1809; Jan. 2, 1971, Pub. L. 91–646, title II, §220(a)(6), 84 Stat. 1903, set forth provisions relating to preservation of low rents in housing projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See sections 1437c, 1437d, and 1437f of this title.

Section 1416, acts Sept. 1, 1937, ch. 896, §16, 50 Stat. 896; July 15, 1949, 338, title III, §307(f) 63 Stat. 430; Aug. 2, 1954, ch. 649, title IV, §404, 68 Stat. 633; Nov. 3, 1966, Pub. L. 89–754, title X, §1003, 80 Stat. 1284; May 25, 1967, Pub. L. 90–19, §2(h), (i), 81 Stat. 20, provided for application of labor standards to contracts, etc., involving Federal projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437 of this title.

APPLICATION FOR PRELIMINARY LOANS APPROVED PRIOR TO SEPTEMBER 2, 1964

Pub. L. 88–560, title IV, §405(b), Sept. 2, 1964, 78 Stat. 795, provided that the amendments made by subsection (a) to subsec. (b)(7) of section 1415 of this title were not to be applicable to any project for which an application for a preliminary loan had been approved by the local governing body prior to Sept. 2, 1964.

TRANSFERRED FUNDS; AVAILABILITY FOR EXPENDITURE

Act Apr. 20, 1950, ch. 94, title II, §205(c), 64 Stat. 73, provided that all unexpended receipts, notwithstanding any limitations contained in the second proviso of act May 26, 1947, ch. 82, title I, 61 Stat. 109, derived from the sale of labor supply centers, labor homes, labor camps, and facilities, and all other unexpended balances of funds available for the maintenance, operation, and liquidation of the properties transferred and for the administrative expenses of transfer were transferred to the Public Housing Administration, to be available until expended, in accordance with the provisions of this chapter.

§ 1417. Repealed. Pub. L. 90–448, title XVII, § 1719(b), Aug. 1, 1968, 82 Stat. 610

Section, act Sept. 1, 1937, ch. 896, § 17, 50 Stat. 897, related to capital stock of the Authority.

RETIREMENT OF CAPITAL STOCK

Section 1719(b) of Pub. L. 90–448 provided in part that the capital stock referred to in this section be retired and the sum of $1,000,000 represented by such stock returned to the Treasury of the United States.

§§ 1417a to 1422. Omitted

CODIFICATION

Sections 1417a to 1422 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1417a, act Sept. 1, 1937, ch. 896, § 17, as added Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1719(c), 82 Stat. 610, set forth additional functions, powers, and duties of the Secretary. See section 1437h of this title.

Section 1418, act Sept. 1, 1937, ch. 896, § 18, 50 Stat. 897, authorized all assets and receipts of the Authority to remain available until expended. See section 1437h of this title.

Section 1419, act Sept. 1, 1937, ch. 896, § 19, 50 Stat. 897, authorized the allocation of funds available for similar purposes to the Authority.

Section 1420, acts Sept. 1, 1937, ch. 896, § 20, 50 Stat. 898; June 21, 1938, ch. 554, title VI, § 602, 52 Stat. 820; Oct. 30, 1941, ch. 467, 55 Stat. 759; July 15, 1949, ch. 338, title III, § 304(h), 63 Stat. 427; Aug. 1, 1968, Pub. L. 90–448, title II, § 203(b), 82 Stat. 503, authorized the Authority to issue obligations for purchase and sale by the Secretary of the Treasury. See section 1437b of this title.

Section 1421, acts Sept. 1, 1937, ch. 896, § 21, 50 Stat. 898; July 15, 1949, ch. 338, title III, § 307(g), 63 Stat. 431; Aug. 7, 1956, ch. 1029, title IV, § 403, 70 Stat. 1103; June 30, 1961, Pub. L. 87–70, title II, § 204(c), 75 Stat. 164, set forth depository and other banking requirements applicable to the Authority. See section 1437h of this title.

Section 1421a, act Sept. 1, 1937, ch. 896, § 22, as added July 15, 1949, ch. 338, title III, § 304(b), 63 Stat. 424; amended June 30, 1961, Pub. L. 87–70, title III, § 302(b), 75 Stat. 166; Aug. 10, 1965, Pub. L. 89–117, title V, § 507(b)(4), 79 Stat. 489; May 25, 1967, Pub. L. 90–19, § 2(j), 81 Stat. 20, set forth provisions for private financing of low-rent-housing projects. See sections 1437d and 1437i of this title.

Section 1421b, act Sept. 1, 1937, ch. 896, § 23, as added Aug. 10, 1965, Pub. L. 89–117, title I, § 103(a), 79 Stat. 455; amended Nov. 3, 1966, Pub. L. 89–754, title X, § 1002, 80 Stat. 1284; Aug. 1, 1968, Pub. L. 90–448, title II, §§ 208, 210, 82 Stat. 504, 505; Dec. 24, 1969, Pub. L. 91–152, title II, § 217(c), 83 Stat. 390; Dec. 31, 1970, Pub. L. 91–609, title II, § 204(a)(1), (b), 84 Stat. 1777, set forth provisions authorizing low-rent housing in private accommodations. See section 1437f of this title.

Section 1422, acts Sept. 1, 1937, ch. 896, § 24, formerly § 22, 50 Stat. 899; renumbered, § 23, July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431; renumbered § 24, Aug. 10, 1965, Pub. L. 87–117, title I, § 103(a), 79 Stat. 455, provided for applicability of all general penal statutes relating to larceny etc., of moneys and properties of the Authority.

RETROACTIVE APPLICATION OF POLICIES OR PROCEDURES ESTABLISHED BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO RIGHTS OF OWNERS OF LEASED HOUSING, INCLUDING RIGHT OF RENEWAL

Pub. L. 93–383, title II, § 208, Aug. 22, 1974, 88 Stat. 669, as amended by Pub. L. 95–128, title II, § 201(h), Oct. 12, 1977, 91 Stat. 1129, provided that: "Nothing in this title [see Tables for classification] or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under section 23 of the United States Housing Act of 1937 [section 1421b of this title], including the right to renewal of such lease to the maximum term permitted by law, if such lease was entered into prior to the effective date of such policy or procedure."

§§ 1423 to 1426. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 1423, act Sept. 1, 1937, ch. 896, § 24, formerly § 23, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for false entries and reports.

Section 1424, act Sept. 1, 1937, ch. 896, § 25, formerly § 24, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for defrauding or hindering the Authority.

Section 1425, act Sept. 1, 1937, ch. 896, § 26, formerly § 25, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, related to penalties for concealment of interest in property.

Section 1426, act Sept. 1, 1937, ch. 896, § 27, formerly § 26, 50 Stat. 899, renumbered July 15, 1949, ch. 388, title III, § 307(h), 63 Stat. 431, related to penalties for unlawful use of the name "United States Housing Authority".

Sections 1423 to 1426 of this title are covered by section 1012 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 20 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 18, Crimes and Criminal Procedure.

§§ 1427 to 1431. Omitted

CODIFICATION

Sections 1427 to 1431 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1427, act Sept. 1, 1937, ch. 896, § 28, formerly § 27, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, provided for application of provisions when conflicting with other laws relating to housing or slum clearance.

Section 1428, act Sept. 1, 1937, ch. 896, § 29, formerly § 28, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, made available funds for the District of Columbia.

Section 1429, act Sept. 1, 1937, ch. 896, § 30, formerly § 29, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, provided for separability of provisions.

Section 1430, act Sept. 1, 1937, ch. 896, § 31, formerly § 30, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, set forth short title of provisions as "United States Housing Act of 1937". See section 1 of act Sept. 1, 1937, as added by section 201(a) of Pub. L. 93–383, set out as a Short Title note under section 1437 of this title.

Section 1431, Pub. L. 91–556, title IV, Dec. 17, 1970, 84 Stat. 1463, which provided that the necessary expenses of providing representatives at sites of non-Federal projects in connection with construction of these projects by public housing agencies with aid under this chapter, be compensated by these agencies by payments of fixed fees, was from the Independent Offices and Department of Housing and Urban Development Appropriations Act, 1971, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Nov. 26, 1969, Pub. L. 91–126, title III, 83 Stat. 242.
Oct. 4, 1968, Pub. L. 90–550, title III, 82 Stat. 956.
Nov. 3, 1967, Pub. L. 90–121, title II, 81 Stat. 360.
Sept. 6, 1966, Pub. L. 89–555, title II, 80 Stat. 688.
Aug. 16, 1965, Pub. L. 89–128, title II, 79 Stat. 542.
Aug. 30, 1964, Pub. L. 88–507, title II, 78 Stat. 665.
Dec. 19, 1963, Pub. L. 88–215, title II, 77 Stat. 447.
Oct. 3, 1962, Pub. L. 87–741, title II, 76 Stat. 739.

Aug. 17, 1961, Pub. L. 87–141, title II, 75 Stat. 363.
July 12, 1960, Pub. L. 86–626, title II, 74 Stat. 444.
Sept. 14, 1959, Pub. L. 86–255, title II, 73 Stat. 517.
Aug. 28, 1958, Pub. L. 85–844, title II, 72 Stat. 1081.
June 29, 1957, Pub. L. 85–69, title II, 71 Stat. 241.
June 27, 1956, ch. 452, title II, 70 Stat. 355.
June 30, 1955, ch. 244, title II, 69 Stat. 215.
June 24, 1954, ch. 359, title II, 68 Stat. 297.
July 31, 1953, ch. 302, title II, 67 Stat. 315.
July 5, 1952, ch. 578, title III, 66 Stat. 417.
Aug. 31, 1951, ch. 376, title IV, 65 Stat. 299.
Sept. 6, 1950, ch. 896, Ch. VIII, title II, 64 Stat. 723.
Aug. 24, 1949, ch. 506, title II, 63 Stat. 659.
June 30, 1948, ch. 773, title II, 62 Stat. 1190.
July 30, 1947, ch. 358, title II, 61 Stat. 579.
July 20, 1946, ch. 589, title II, 60 Stat. 592.
May 3, 1945, ch. 106, title I, 59 Stat. 124.

§ 1432. Repealed. July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 441

Section, act Aug. 10, 1948, ch. 832, title V, § 503, 62 Stat. 1285, related to State low-rent or veterans' housing projects.

§ 1433. Omitted

CODIFICATION

Section, act July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 440, provided for conversion of State and local low-rent or veterans' housing projects to Federal projects if the contract for State financial assistance for such project was entered into on or after Jan. 1, 1948, and prior to Jan. 1, 1950.

§ 1434. Records; contents; examination and audit

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.], or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and the disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 1715r of title 12) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

(Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647; Pub. L. 87–70, title IX, § 908, June 30, 1961, 75 Stat. 191; Pub. L. 90–19, § 10(h), May 25, 1967, 81 Stat. 23.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§ 1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The first day after the first full calendar month following the date of approval of the Housing Act of 1961, referred to in text, probably means Aug. 1, 1961, which is the first day after the first full calendar month following approval of Pub. L. 87–70, which was approved on June 30, 1961.

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

Section was formerly classified to sections 1446 of this title and 1715s of Title 12, Banks and Banking.

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary of Housing and Urban Development'' for ''Federal Housing Commissioner'' in second sentence and ''Department of Housing and Urban Development'' for ''Housing and Home Finance Agency (or any official or constituent thereof)'' and ''Housing and Home Finance Agency (or such official or constituent thereof)'' in first sentence and for ''Housing and Home Finance Agency or any official or constituent agency thereof'' in third sentence, respectively.

1961—Pub. L. 87–70 required record keeping provisions in contracts under the Housing Act of 1949 and in contracts under any other act, prohibited insurance of mortgages covering new or rehabilitated multifamily housing unless the mortgagor certifies that he will keep records, and empowered the Comptroller General to examine and audit records, and substituted ''Housing Act of 1961'' for ''Housing Act of 1954''.

EFFECTIVE DATE

The fourth sentence of section 814 of act Aug. 2, 1954 (prior to the amendment by section 908 of act June 30, 1961) provided that this section is effective on first day after first calendar month following the date of approval of the act (Aug. 2, 1954).

§ 1435. Access to books, documents, etc., for purpose of audit

Every contract for loans or annual contributions under this chapter shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under this chapter.

(Aug. 2, 1954, ch. 649, title VIII, § 816, 68 Stat. 647; Pub. L. 90–19, § 10(i), May 25, 1967, 81 Stat. 23.)

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary of Housing and Urban Development'' for ''Public Housing Commissioner''.

§ 1436. Repealed. Pub. L. 91–609, title V, § 503(4), Dec. 31, 1970, 84 Stat. 1786

Section, Pub. L. 87–70, title II, § 207, June 30, 1961, 75 Stat. 165; Pub. L. 88–560, title II, § 203(e), title IV, § 407, Sept. 2, 1964, 78 Stat. 784, 796; Pub. L. 89–117, title XI, § 1105, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, § 18(a), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title XVII, § 1714(a), Aug. 1, 1968, 82 Stat. 607, provided for low-rent housing demonstration programs and development grants. See section 1701z–1 et seq. of Title 12, Banks and Banking.

EFFECTIVE DATE OF REPEAL: SAVINGS PROVISION

Section 503 of Pub. L. 91–609 provided in part for repeal of sections 1701d–3, 1701e, 1701e note, and 1701f of Title 12, Banks and Banking, this section, note below, section 1452a, section 1456 note, and sections 3372, 3373 of this title, effective July 1, 1971, except that the repeal shall not affect contracts, commitments, reservations, or other obligations entered pursuant to such provisions prior to July 1, 1971.

REPORT OF SELF-HELP STUDIES AND DEMONSTRATIONS

Pub. L. 90–448, title XVII, § 1714(b), Aug. 1, 1968, 82 Stat. 607, providing for report to Congress within one year after Aug. 1, 1968, respecting self-help studies and demonstrations, was repealed by section 503(7) of Pub. L. 91–609.

§ 1436a. Restriction on use of assisted housing by non-resident aliens

(a) Conditions for assistance

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8;

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 1231(b)(3) of title 8;

(6) an alien lawfully admitted for temporary or permanent residence under section 1255a of title 8; or

(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

(b) "Financial assistance" defined

(1) For purposes of this section the term ''financial assistance'' means financial assistance made available pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], section 1715z or 1715z–1 of title 12, the direct loan program under section 1472 of this title or section 1472(c)(5)(D), 1474, 1490a(a)(2)(A), or 1490r of this title, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12851 et seq.], or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.

(c) Preservation of families; students

(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on February 5, 1988, is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]) or the applicable Secretary (in the case of any other financial assistance) shall take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a) of this section. For purposes of this paragraph, the term ''family'' means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse. Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which

the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.

(B)(i) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.

(ii) Except as provided in clause (iii), any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 18-months. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 1157 of title 8 or an individual seeking asylum under section 1158 of title 8.

(2) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a residence in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d) Conditions for provision of financial assistance for individuals

The following conditions apply with respect to financial assistance being or to be provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status. If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the applicable Secretary, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the applicable Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.

(B) In this subsection, the term ''satisfactory immigration status'' means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the applicable Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

In the case of an individual applying for financial assistance on or after September 30, 1996, the applicable Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).

(3) If the documentation described in paragraph (2)(A) is presented, the applicable Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the applicable Secretary—

(i) shall provide a reasonable opportunity, not to exceed 30 days, to submit to the applicable Secretary evidence indicating a satisfactory immigration status, or

to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),

(ii) in the case of any individual receiving assistance on September 30, 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(iii) in the case of any individual applying for financial assistance on or after September 30, 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the applicable Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the applicable Secretary may not—

(I) in the case of any individual receiving assistance on September 30, 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

(II) in the case of any individual applying for financial assistance on or after September 30, 1996, deny the application for such assistance on the basis of the immigration status of that individual; and

(iii) the applicable Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the applicable Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status, the applicable Secretary shall—

(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

(C) provide to the individual written notice of the determination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C).

(6) The applicable Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

For purposes of this subsection, the term ''applicable Secretary'' means the applicable Secretary, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) Regulatory actions against entities for erroneous determinations regarding eligibility based upon citizenship or immigration status

The applicable Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)), was required to provide a reasonable opportunity to submit documentation, or

(3) because the entity, under subsection (d)(4)(B)(ii) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or the response from the Immigration and Naturalization Service to the appeal of that individual.

(f) Verification system; liability of State or local government agencies or officials; prior consent agreements, court decrees or court orders unaffected

(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) of this section if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to February 5, 1988.

(g) Reimbursement for costs of implementation

The applicable Secretary is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs in-

curred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) of this section (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)).

(h) "Applicable Secretary" defined

For purposes of this section, the term ''applicable Secretary'' means—

(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12851 et seq.]; and

(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.

(i) Verification of eligibility

(1) In general

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least the individual or one family member under subsection (d) of this section by the applicable Secretary or other appropriate entity.

(2) Rules applicable to public housing agencies

A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937 [42 U.S.C. 1437a])—

(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance[1]

(B) in carrying out subsection (d) of this section—

(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 1324a(b)(1) of title 8; and

(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

(3) Eligibility of families

For purposes of this subsection, with respect to a family, the term ''eligibility'' means the eligibility of each family member.

(Pub. L. 96–399, title II, §214, Oct. 8, 1980, 94 Stat. 1637; Pub. L. 97–35, title III, §329(a), Aug. 13, 1981, 95 Stat. 408; Pub. L. 99–603, title I, §121(a)(2), Nov. 6, 1986, 100 Stat. 3386; Pub. L. 100–242, title I, §164(a)–(f)(1), Feb. 5, 1988, 101 Stat. 1860–1863; Pub. L. 104–193, title IV, §441(a), Aug. 22, 1996, 110 Stat. 2276; Pub. L. 104–208, div. C, title III, §308(g)(7)(D)(ii), title V, §§572–576, Sept. 30, 1996, 110 Stat. 3009–624, 3009–684, 3009–685, 3009–687; Pub. L. 105–276, title V, §592(a), Oct. 21, 1998, 112 Stat. 2653; Pub. L. 106–504, §3(b), Nov. 13, 2000, 114 Stat. 2312.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(7), is Pub. L. 96–399, Oct. 8, 1980, 94 Stat. 1614, as amended, known as the Housing and Community Development Act of 1980. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 5301 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (b)(1) and (h)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, as amended. Subtitle A of title III of the Act, known as the National Homeownership Trust Act, is classified generally to subchapter III (§12851 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (b), is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

The Immigration Reform and Control Act of 1986, referred to in subsecs. (e)(2), (3) and (g), is Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3359. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1101 of Title 8, Aliens and Nationality, and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1980, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

2000—Subsec. (a)(7). Pub. L. 106–504 added par. (7).

1998—Subsec. (b)(2). Pub. L. 105–276, §592(a)(1), substituted ''applicable Secretary'' for ''Secretary of Housing and Urban Development''.

Subsec. (c)(1)(B). Pub. L. 105–276, §592(a)(2), aligned cls. (ii) and (iii) with cl. (i).

Subsec. (d)(1)(A). Pub. L. 105–276, §592(a)(3)(A), in last sentence, substituted ''applicable Secretary, or'' for ''Secretary of Housing and Urban Development, or'' and ''applicable Secretary considers'' for ''Secretary considers''.

Subsec. (d)(2). Pub. L. 105–276, §592(a)(3)(B), aligned concluding provisions with par. (2) and inserted ''applicable'' before ''Secretary'' in concluding provisions.

Subsec. (d)(4)(B)(ii). Pub. L. 105–276, §592(a)(3)(C), inserted ''applicable'' before ''Secretary'' in introductory provisions.

Subsec. (d)(5). Pub. L. 105–276, §592(a)(3)(D), substituted ''the applicable Secretary shall'' for ''the Secretary shall'' in introductory provisions.

Subsec. (d)(6). Pub. L. 105–276, §592(a)(3)(E), inserted ''applicable'' before ''Secretary''.

Subsec. (h). Pub. L. 105–276, §592(a)(5), redesignated subsec. (h), relating to verification of eligibility, as (i).

Subsec. (h)(1). Pub. L. 105–276, §592(a)(4)(A), substituted ''No'' for ''Except in the case of an election

[1] So in original. Probably should be followed by ''; and''.

under paragraph (2)(A), no'' and ''subsection (d) of this section'' for ''this section'' and inserted ''applicable'' before ''Secretary''.

Subsec. (h)(2)(A). Pub. L. 105–276, § 592(a)(4)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: ''may elect not to comply with this section; and''.

Subsec. (h)(2)(B). Pub. L. 105–276, § 592(a)(4)(B)(ii), substituted ''in carrying out subsection (d) of this section'' for ''in complying with this section'' in introductory provisions.

Subsec. (i). Pub. L. 105–276, § 592(a)(5), redesignated subsec. (h), relating to verification of eligibility, as (i).

1996—Subsec. (a). Pub. L. 104–193, § 441(a)(1), substituted ''applicable Secretary'' for ''Secretary of Housing and Urban Development'' in introductory provisions.

Subsec. (a)(5). Pub. L. 104–208, § 308(g)(7)(D)(ii), substituted ''section 1231(b)(3)'' for ''section 1253(h)''.

Subsec. (b). Pub. L. 104–208, § 572, designated existing provisions as par. (1) and added par. (2).

Pub. L. 104–193, § 441(a)(2), inserted ''the direct loan program under section 1472 of this title or section 1472(c)(5)(D), 1474, 1490a(a)(2)(A), or 1490r of this title, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act,'' after ''1715z–1 of title 12,''.

Subsec. (c). Pub. L. 104–193, § 441(a)(1), substituted ''applicable Secretary'' for ''Secretary of Housing and Urban Development'' in two places.

Subsec. (c)(1). Pub. L. 104–208, § 573(1), substituted ''shall'' for ''may, in its discretion,'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 104–208, § 573(2), inserted at end ''Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.''

Subsec. (c)(1)(B). Pub. L. 104–208, § 573(3), designated first sentence of existing provisions as cl. (i), designated second and third sentences of existing provisions as cl. (ii) and substituted ''Except as provided in clause (iii), any deferral'' for ''Any deferral'' and ''18-months'' for ''3 years'', and added cl. (iii).

Subsec. (d). Pub. L. 104–208, § 574(1), inserted ''or to be'' after ''being'' in introductory provisions.

Pub. L. 104–193, § 441(a)(3), substituted ''applicable Secretary'' for ''Secretary'' wherever appearing in pars. (2) to (6).

Pub. L. 104–193, § 441(a)(1), (4), substituted ''the term 'applicable Secretary' '' for ''the term 'Secretary' '' and ''applicable Secretary'' for ''Secretary of Housing and Urban Development'' in closing provisions.

Subsec. (d)(1)(A). Pub. L. 104–208, § 574(2), inserted at end ''If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary of Housing and Urban Development, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.''

Subsec. (d)(2). Pub. L. 104–208, § 574(3), substituted ''on September 30, 1996, or applying for financial assistance on or after September 30, 1996'' for ''on February 5, 1988'' in introductory provisions and added concluding provisions.

Subsec. (d)(4). Pub. L. 104–208, § 574(4)(A), substituted ''on September 30, 1996, or applying for financial assistance on or after September 30, 1996'' for ''on February 5, 1988'' in introductory provisions.

Subsec. (d)(4)(A)(i). Pub. L. 104–208, § 574(4)(B)(i)(I), inserted '', not to exceed 30 days,'' after ''reasonable opportunity''.

Subsec. (d)(4)(A)(ii), (iii). Pub. L. 104–208, § 574(4)(B)(i)(II), (ii), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: ''may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and''.

Subsec. (d)(4)(B)(ii). Pub. L. 104–208, § 574(4)(C), added cl. (ii) and struck out former cl. (ii) which read as follows: ''pending such verification or appeal, the applicable Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and''.

Subsec. (d)(5). Pub. L. 104–208, § 574(5), inserted '', the Secretary shall'' after ''status'' in introductory provisions, added subpars. (A) to (C), and struck out former subpars. (A) and (B) which read as follows:

''(A) the applicable Secretary shall deny or terminate the individual's eligibility for financial assistance, and

''(B) the applicable fair hearing process shall be made available with respect to the individual.''

Subsec. (d)(6). Pub. L. 104–208, § 574(6), added par. (6) and struck out former par. (6) which read as follows: ''For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

''(A) The applicable Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

''(B) Upon timely request by the individual, the applicable Secretary shall provide a hearing before an impartial hearing officer designated by the applicable Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

''(C) The applicable Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

''(D) Financial assistance may not be denied or terminated until the completion of the hearing process.''

Subsec. (e). Pub. L. 104–193, § 441(a)(1), substituted ''applicable Secretary'' for ''Secretary of Housing and Urban Development'' in introductory provisions.

Subsec. (e)(3). Pub. L. 104–208, § 575(2), inserted at end ''the response from the Immigration and Naturalization Service to the appeal of that individual.''

Subsec. (e)(4). Pub. L. 104–208, § 575(1), (3), struck out par. (4) which read as follows: ''because of a fair hearing process described in subsection (d)(5)(B) of this section (or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)).''

Subsec. (g). Pub. L. 104–193, § 441(a)(1), substituted ''applicable Secretary'' for ''Secretary of Housing and Urban Development''.

Subsec. (h). Pub. L. 104–208, § 576, added subsec. (h) relating to verification of eligibility.

Pub. L. 104–193, § 441(a)(5), added subsec. (h) defining ''applicable Secretary''.

1988—Subsec. (a)(6). Pub. L. 100–242, § 164(a), added par. (6).

Subsec. (c). Pub. L. 100–242, § 164(b), added subsec. (c).

Subsec. (d). Pub. L. 100–242, § 164(c)(8), amended last sentence generally. Prior to amendment, last sentence read as follows: ''In this subsection and subsection (e) of this section, the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available.''

Subsec. (d)(2). Pub. L. 100–242, § 164(c)(1), inserted '', is not 62 years of age or older, and is receiving financial assistance on February 5, 1988'' after ''States''.

Subsec. (d)(4). Pub. L. 100–242, § 164(c)(2), in introductory provisions, inserted '', is not 62 years of age or older, and is receiving financial assistance on February

5, 1988'' after ''States'', and ''or recertification'' after ''application''.

Subsec. (d)(4)(A)(i). Pub. L. 100–242, §164(c)(3), inserted after comma ''or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),''.

Subsec. (d)(4)(B). Pub. L. 100–242, §164(c)(4), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—''.

Subsec. (d)(4)(B)(i), (ii). Pub. L. 100–242, §164(c)(5), (6), inserted ''or additional information'' after ''documents'' in cl. (i), and ''or appeal'' after ''verification'' in cl. (ii).

Subsec. (d)(6). Pub. L. 100–242, §164(c)(7), added par. (6).

Subsec. (e). Pub. L. 100–242, §164(d)(1), in introductory provisions, inserted ''of Housing and Urban Development'' after ''Secretary''.

Subsec. (e)(2), (3). Pub. L. 100–242, §164(d)(2), (3), inserted ''(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603))''.

Subsec. (e)(4). Pub. L. 100–242, §164(d)(4), inserted ''(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603))''.

Subsec. (f). Pub. L. 100–242, §164(e), added subsec. (f).

Subsec. (g). Pub. L. 100–242, §164(f)(1), added subsec. (g).

1986—Subsecs. (d), (e). Pub. L. 99–603 added subsecs. (d) and (e).

1981—Subsec. (a). Pub. L. 97–35 substituted provisions relating to restrictions on use of assisted housing by resident aliens meeting further conditions for provisions relating to prohibition on financial assistance to nonimmigrant student-aliens.

Subsec. (b). Pub. L. 97–35 struck out ''(1)'' after ''(b)'' and par. (2) which defined ''nonimmigrant student-alien''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §592(b), Oct. 21, 1998, 112 Stat. 2654, provided that: ''The amendments made by this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(7)(D)(ii) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Amendment by sections 572–576 of Pub. L. 104–208 effective Sept. 30, 1996, see section 591 of Pub. L. 104–208, set out as a note under section 1101 of Title 8.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 164(h) of Pub. L. 100–242 provided that:

''(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) [amending this section, repealing section 1437r of this title, and enacting provisions set out below] shall take effect on the date of the enactment of this Act [Feb. 5, 1988].

''(2) The amendments made by subsections (c) and (d) [amending this section] shall take effect on October 1, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective on Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

SHORT TITLE OF 1996 AMENDMENT

Section 571 of div. C of Pub. L. 104–208 provided that: ''This subtitle [subtitle E (§§571–577) of title V of div. C of Pub. L. 104–208, amending this section and enacting provisions set out as a note below] may be cited as the 'Use of Assisted Housing by Aliens Act of 1996'.''

REGULATIONS

Section 577 of div. C of Pub. L. 104–208 provided that:

''(a) ISSUANCE.—Not later than the 60 days after the date of enactment of this Act [Sept. 30, 1996], the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part [probably means this subtitle, subtitle E (§§571–577) of title V of div. C of Pub. L. 104–208, see Short Title of 1996 Amendment note above]. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or opportunity for comment.

''(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN–2501–AA63 (Docket No. R–95–1409; FR–2383–F–050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824–14861), shall not apply after that date.''

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS

Section 164(g) of Pub. L. 100–242 provided that: ''In carrying out section 214 of the Housing and Community Development Act of 1980 [this section] during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

''(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

''(2) if not a citizen or national—

''(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age 'and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987' [Feb. 5, 1988]; or

''(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.''

DELAYED IMPLEMENTATION OF 1981 AMENDMENT

Pub. L. 98–181, title IV, §474(e), Nov. 30, 1983, 97 Stat. 1239, provided in part that: ''The Secretary may not implement the amendment to section 214 of the Housing and Community Development Act of 1980 [this section], made by section 329(a) of the Housing and Community Development Amendments of 1981 [Pub. L. 97–35], before the expiration of the one-year period following the date of the enactment of this Act [Nov. 30, 1983].''

ALIENS GRANTED CONDITIONAL ENTRY ELIGIBLE FOR ASSISTED HOUSING

Section 329(b) of Pub. L. 97–35 provided that: ''An alien who is lawfully present in the United States as a

result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 214 of the Housing and Community Development Act of 1980 [this section], to be an alien described in section 214(a)(3) of such Act [subsec. (a)(3) of this section].''

§ 1436b. Financial assistance in impacted areas

The Secretary of Housing and Urban Development shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. For the purposes of this section, the term ''federally assisted housing programs'' means any program authorized by the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], sections 1715z and 1715z–1 of title 12, section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or section 1701q of title 12.

(Pub. L. 96–399, title II, § 216, Oct. 8, 1980, 94 Stat. 1638.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to this chapter (§ 1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in text, is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, as amended, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1980, and not as part of the United States Housing Act of 1937 which comprises this chapter.

§ 1436c. Insurance for public housing agencies and Indian housing authorities

On and after October 28, 1991, notwithstanding any other provision of State or Federal law, regulation or other requirement, any public housing agency or Indian housing authority that purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary, may purchase such insurance without regard to competitive procurement.

On and after October 28, 1991, the Secretary shall establish standards as set forth herein, by regulation, adopted after notice and comment rulemaking pursuant to subchapter II of chapter 5 of title 5, which will become effective not later than one year from October 28, 1991.

On and after October 28, 1991, in establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

On and after October 28, 1991, the Secretary shall not approve additional nonprofit insurance entities until such standards have become final, nor shall the Secretary revoke the approval of any nonprofit insurance entity previously approved by the Department unless for cause and after a due process hearing.

On and after October 28, 1991, until the Department of Housing and Urban Development has adopted regulations specifying the nature and quality of insurance covering the potential personal injury liability exposure of public housing authorities and Indian housing authorities (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint in federally subsidized public and Indian housing units, said authorities shall be permitted to purchase insurance for such risk, as an allowable expense against amounts available for capital improvements (modernization): *Provided*, That such insurance is competitively selected and that coverage provided under such policies, as certified by the authority, provides reasonable coverage for the risk of liability exposure, taking into consideration the potential liability concerns inherent in the testing and abatement of lead-based paint, and the managerial and quality assurance responsibilities associated with the conduct of such activities.

(Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 758.)

REFERENCES IN TEXT

Herein, referred to in text, probably means Pub. L. 102–139, Oct. 28, 1991, 105 Stat. 736, known as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In the second undesignated par., ''subchapter II of chapter 5 of title 5'' was substituted for ''the Administrative Procedures Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, and not as part of the United States Housing Act of 1937 which comprises this chapter.

§ 1436d. Consultation with affected areas in settlement of litigation

In negotiating any settlement of, or consent decree for, significant litigation regarding public housing or section 8 [42 U.S.C. 1437f] tenant-based assistance that involves the Secretary and any public housing agency or any unit of general

local government, the Secretary shall seek the views of any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved, if the resolution of such litigation would involve the acquisition or development of public housing dwelling units or the use of vouchers under section 1437f of this title in jurisdictions that are adjacent to the jurisdiction of the public housing agency involved in the litigation.

(Pub. L. 105–276, title V, § 599H(b), Oct. 21, 1998, 112 Stat. 2668.)

REFERENCES IN TEXT

Secretary, referred to in text, means the Secretary of Housing and Urban Development.

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of the United States Housing Act of 1937 which comprises this chapter.

EFFECTIVE DATE

Pub. L. 105–276, title V, § 599H(m), Oct. 21, 1998, 112 Stat. 2670, provided that: ''This section [enacting this section and amending section 1490 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

SUBCHAPTER I—GENERAL PROGRAM OF ASSISTED HOUSING

AMENDMENTS

1988—Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681, added subchapter heading.

§ 1437. Declaration of policy and public housing agency organization

(a) Declaration of policy

It is the policy of the United States—

(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this chapter—

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this subchapter, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) Public housing agency organization

(1) Required membership

Except as provided in paragraph (2), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

(A) who is directly assisted by the public housing agency; and

(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) Exception

Paragraph (1) shall not apply to any public housing agency—

(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

(B) with less than 300 public housing units, if—

(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 1437c–1(e) of this title of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) Nondiscrimination

No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 1437f of this title.

(Sept. 1, 1937, ch. 896, title I, § 2, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653; amended Pub. L. 97–35, title III, § 322(c), Aug. 13, 1981, 95 Stat. 402; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, § 572(2), Nov. 28, 1990, 104 Stat. 4236; Pub. L. 105–276, title V, § 505, Oct. 21, 1998, 112 Stat. 2522.)

PRIOR PROVISIONS

A prior section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, related to definitions and was classified to section 1402 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 1 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was clas-

sified to section 1401 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Pub. L. 105–276 amended section catchline and text generally. Prior to amendment, text read as follows: ''It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project.''

1990—Pub. L. 101–625 substituted ''low-income housing'' for ''lower income housing''.

1981—Pub. L. 97–35 substituted reference to lower income for reference to low income in two places.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, § 503, Oct. 21, 1998, 112 Stat. 2521, provided that:

''(a) IN GENERAL.—The amendments under this title [see Tables for classification] are made on the date of the enactment of this Act [Oct. 21, 1998], but this title shall take effect, and the amendments made by this title shall apply beginning upon, October 1, 1999, except—

''(1) as otherwise specifically provided in this title; or

''(2) as otherwise specifically provided in any amendment made by this title.

The Secretary may, by notice, implement any provision of this title or any amendment made by this title before such date, except to the extent that such provision or amendment specifically provides otherwise.

''(b) SAVINGS PROVISION.—Notwithstanding any amendment under this title that is made (in accordance with subsection (a)) on the date of the enactment of this Act [Oct. 21, 1998] but applies beginning on October 1, 1999, the provisions of law amended by such amendment, as such provisions were in effect immediately before the making of such amendment, shall continue to apply during the period beginning on the date of the enactment of this Act and ending upon October 1, 1999, unless otherwise specifically provided by this title.

''(c) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this title and the amendments made by this title.

''(d) LIST OF OBSOLETE DOCUMENTS.—Not later than October 1, 1999, the Secretary of Housing and Urban Development shall cause to be published in the Federal Register a list of all rules, regulations, and orders (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 [42 U.S.C. 1437f] tenant-based programs issued or promulgated under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] before the date of the enactment of this Act [Oct. 21, 1998] that are or will be obsolete because of the enactment of this Act or are otherwise obsolete.

''(e) PROTECTION OF CERTAIN REGULATIONS.—No provision of this title may be construed to repeal the regulations of the Secretary regarding tenant participation and tenant opportunities in public housing (24 C.F.R. 964).

''(g)[(f)] EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section 201(b) of Pub. L. 93–383 provided that: ''The provisions of subsection (a) of this section [enacting sections 1437 to 1437j of this title] shall be effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after the date of the enactment of this Act [Aug. 22, 1974]; except that (1) all of the provisions of section 3(1) of the United States Housing Act of 1937, as amended by subsection (a) of this section [section 1437a(1) of this title], shall become effective on the same date, (2) all of the provisions of sections 5 and 9(c) of such Act as so amended [sections 1437c and 1437g(c) of this title] shall become effective on the same date, and (3) section 8 of such Act [section 1437f of this title] as so amended shall be effective not later than January 1, 1975.''

Section 3(1) of the United States Housing Act of 1937, as amended, effective Sept. 26, 1975, see Effective Date note set out under section 1437a of this title.

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–186, title IV, § 401, Dec. 16, 2003, 117 Stat. 2693, provided that: ''This title [amending section 1437v of this title and enacting provisions set out as a note under section 1437v of this title] may be cited as the 'HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–116, title VI, § 601(a), Jan. 10, 2002, 115 Stat. 2220, provided that: ''This title [amending sections 1437f and 5305 of this title and section 1715n of Title 12, Banks and Banking, enacting provisions set out as notes under sections 1437f and 11301 of this title and sections 1701q and 1715n of Title 12, and amending provisions set out as notes under sections 1437f and 11301 of this title and section 1701q of Title 12] may be cited as the 'Mark-to-Market Extension Act of 2001'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–276, title V, § 501(a), Oct. 21, 1998, 112 Stat. 2518, provided that: ''This title [see Tables for classification] may be cited as the 'Quality Housing and Work Responsibility Act of 1998'.''

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–358 provided that: ''This Act [enacting sections 1437aa to 1437ee of this title, amending sections 1437a and 1437c of this title, and enacting provisions set out as a note under section 1437a of this title] may be cited as the 'Indian Housing Act of 1988'.''

SHORT TITLE

Section 1 of title I of act Sept. 1, 1937, ch. 896, as added by section 201(a) of Pub. L. 93–383; renumbered title I, June 29, 1988, Pub. L. 100–358, § 5, 102 Stat. 681, provided that: ''This Act [enacting this chapter] may be cited as the 'United States Housing Act of 1937'.''

APPLICABILITY OF 1996 AMENDMENTS; INDIAN HOUSING

Pub. L. 104–204, title II, § 201(d), Sept. 26, 1996, 110 Stat. 2893, provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by subsections (a), (b), and (c) [amending provisions set out as notes under sections 1437a, 1437c, and 1437*l* of this title] shall apply to public housing developed or oper-

ated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 104–134, title I, §101(e) [title II, §201(a)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendment made by this subsection [amending section 1437*l* of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 104–134, title I, §101(e) [title II, §201(b)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by this subsection [amending section 1437p of this title and provisions set out as a note under section 1437c of this title] and by sections 1002(a), (b), and (c) of Public Law 104–19 [amending sections 1437c, 1437p, and 1437aaa–3 of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 104–99, title IV, §402(e), Jan. 26, 1996, 110 Stat. 43, which provided that amendments made by section 402(a) to (d) and (f) of Pub. L. 104–99 were also to apply to public housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and an Indian housing authority, was repealed by Pub. L. 105–276, title V, §595(e)(16), Oct. 21, 1998, 112 Stat. 2659.

APPLICABILITY OF 1990 AMENDMENTS; INDIAN HOUSING

Section 103(b) of Pub. L. 102–550 provided that:

''(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 ([former] 42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and sections 1437a, 1437b to 1437d, 1437f, 1437g, 1437i, 1437j, 1437*l*, 1437n, 1437p, 1437r, 1437s, and 1437aa to 1437dd of this title, repealing section 1437*o* of this title, and enacting provisions set out as notes under section 1437a of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

''(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].''

Section 419 of title IV of Pub. L. 101–625 provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by this subtitle [subtitle A (§§411–419) of title IV of Pub. L. 101–625, enacting subchapter II–A of this chapter and amending sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title [see Short Title note set out under section 1437aaa of this title] affects the program under section 202 of such Act [former 42 U.S.C. 1437bb].''

Section 527 of Pub. L. 101–625 provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 ([former] 42 U.S.C. 1437aa(b)(2)), the provisions of this subtitle [subtitle A (§§501–527) of title V of Pub. L. 101–625, see Tables for classification] that modify the public housing program under title I of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that sections 502 and 510 [amending sections 1437d and 1437*l* of this title and enacting provisions set out as notes under section 1437d of this title] shall not apply.''

APPLICABILITY OF 1989 AMENDMENTS; INDIAN HOUSING

Pub. L. 101–235, title I, §101(d), Dec. 15, 1989, 103 Stat. 1990, provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by subsections (a), (b), and (c) of this section [amending section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 101–235, title I, §104(c), Dec. 15, 1989, 103 Stat. 1998, provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendment made by subsection (a) [amending section 1439 of this title] and the provisions of subsection (b) of this section [set out as an Effective Date of 1989 Amendment note under section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

REPORTS ON NUMBER AND COST OF FEDERALLY ASSISTED UNITS

Pub. L. 109–115, div. A, title III, §314, Nov. 30, 2005, 119 Stat. 2463, provided that: ''The Secretary of Housing and Urban Development shall submit an annual report no later than August 30, 2006 and annually thereafter to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of these units to the Department of Housing and Urban Development.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. I, title II, §214, Dec. 8, 2004, 118 Stat. 3318.

Pub. L. 108–199, div. G, title II, §213, Jan. 23, 2004, 118 Stat. 393.

Pub. L. 108–7, div. K, title II, §217, Feb. 20, 2003, 117 Stat. 504.

FUNDING OF CERTAIN PUBLIC HOUSING

Pub. L. 105–276, title II, §226, Oct. 21, 1998, 112 Stat. 2490, which provided that no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units unless such unit was so assisted before Oct. 1, 1998, was repealed by Pub. L. 108–7, div. K, title II, §212(b), Feb. 20, 2003, 117 Stat. 504.

[Pub. L. 108–7, div. K, title II, §212(d), Feb. 20, 2003, 117 Stat. 504, provided that: ''The amendment made by subsection (b) [repealing section 226 of Pub. L. 105–276, set out above] shall be deemed to have taken effect on October 21, 1998.'']

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 105–276, title V, §502, Oct. 21, 1998, 112 Stat. 2520, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

''(2) the inventory of public housing units owned, assisted, or operated by public housing agencies, an asset in which the Federal Government has invested over $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

''(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

''(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations has aggravated the problem and has placed excessive administrative burdens on public housing agencies; and

''(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

''(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

''(B) streamlines program requirements;

''(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

''(D) rewards employment and economic self-sufficiency of public housing residents.

''(b) PURPOSES.—The purpose of this title [see Tables for classification] is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by—

''(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

''(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

''(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

''(4) increasing accountability and rewarding effective management of public housing agencies;

''(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

''(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

''(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects.''

MENTAL HEALTH ACTION PLAN

Pub. L. 105–276, title V, § 517, Oct. 21, 1998, 112 Stat. 2550, provided that: ''The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

''(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], including public housing residents, residents of multifamily housing assisted with project-based assistance under section 8 of such Act [42 U.S.C. 1437f], and recipients of tenant-based assistance under such section; and

''(2) develop and disseminate a list of current practices among public housing agencies and owners of assisted housing that serve to benefit persons in need of mental health care.''

ANNUAL REPORT

Pub. L. 105–276, title V, § 581, Oct. 21, 1998, 112 Stat. 2643, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], and annually thereafter, the Secretary shall submit a report to the Congress on—

''(1) the impact of the amendments made by this Act [Pub. L. 105–276, see Tables for classification] on—

''(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; and

''(B) the economic viability of public housing agencies; and

''(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

''(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

USE OF AMERICAN PRODUCTS

Pub. L. 105–276, title V, § 584, Oct. 21, 1998, 112 Stat. 2645, provided that:

''(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act [Pub. L. 105–276, see Tables for classification] should be American made.

''(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

''(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

GAO STUDY ON HOUSING ASSISTANCE PROGRAM COSTS

Pub. L. 105–276, title V, § 585, Oct. 21, 1998, 112 Stat. 2645, provided that:

''(a) STUDY.—The Comptroller General of the United States shall conduct a study that provides an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

''(b) CONTENTS.—The study under this section shall—

''(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, in accordance with generally accepted accounting principles, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

''(2) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

''(c) PROHIBITION OF RECOMMENDATIONS.—In conducting the study under this section and reporting under subsection (e), the Comptroller General may not make any recommendations regarding Federal housing policy.

''(d) FEDERAL ASSISTED HOUSING PROGRAMS.—For purposes of this section, the term 'Federal assisted housing programs' means—

''(1) the public housing program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], except that the study under this section shall differentiate between and compare the development and con-

struction of new public housing and the assistance of existing public housing structures;

''(2) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)];

''(3) the voucher program for rental assistance under section 8(*o*) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)];

''(4) the programs for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

''(5) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949 [42 U.S.C. 1490a(a)(2)(A)];

''(6) the program for housing for the elderly under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

''(7) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013];

''(8) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715*l*(d)(3)] that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act [12 U.S.C. 1715*l*(d)(5)];

''(9) the program under section 236 of the National Housing Act [12 U.S.C. 1715z–1];

''(10) the program for construction or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as in effect before October 1, 1983; and

''(11) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Comptroller General may determine.

''(e) REPORT.—Not later than 12 months after the date of the enactment of this Act [Oct. 21, 1998], the Comptroller General shall submit to the Congress a final report which shall contain the results of the study under this section, including the analysis and estimates required under subsection (b).

''(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note set out under section 1441 of this title], Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note set out under section 3331 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

§ 1437a. Rental payments

(a) Families included; rent options; minimum amount; occupancy by police officers and over-income families

(1) Dwelling units assisted under this chapter shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually. Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this chapter (other than a family assisted under section 1437f(*o*) or (y) of this title or paying rent under section 1437f(c)(3)(B)[1] of this title) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Except as otherwise provided under this clause, each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which shall—

(I) be based on the rental value of the unit, as determined by the public housing agency; and

(II) be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not

[1] See References in Text note below.

exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in subsection (b)(5)(B) of this section), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of[2] reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 1437f(*o*)(2) of this title, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than $50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 1437f of this title; and

(III) each family who is assisted under the voucher program under section 1437f of this title, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 1437f of this title to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary na-

[2] So in original. Probably should be ''or''.

ture, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term ''police officer'' means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term ''over-income family'' means an individual or family that is not a low-income family at the time of initial occupancy.

(b) Definition of terms under this chapter

When used in this chapter:

(1) The term ''low-income housing'' means decent, safe, and sanitary dwellings assisted under this chapter. The term ''public housing'' means low-income housing, and all necessary appurtenances thereto, assisted under this chapter other than under section 1437f of this title. The term ''public housing'' includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term ''low-income housing project'' or ''project'' means (A) housing developed, acquired, or assisted by a public housing agency under this chapter, and (B) the improvement of any such housing.

(2) The term ''low-income families'' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term ''very low-income families'' means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this chapter, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas

that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term ''families'' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this chapter of 2 or more bedrooms.

(B) FAMILIES.—The term ''families'' includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term ''elderly person'' means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term ''person with disabilities'' means a person who—

(i) has a disability as defined in section 423 of this title,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 15002 of this title.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) DISPLACED PERSON.—The term ''displaced person'' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term ''near-elderly person'' means a person who is at least 50 years of age but below the age of 62.

(4) The term ''income'' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title may not be considered as income under this paragraph.

(5) ADJUSTED INCOME.—The term ''adjusted income'' means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

(A) MANDATORY EXCLUSIONS.—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

(i) ELDERLY AND DISABLED FAMILIES.—$400 for any elderly or disabled family.

(ii) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(I) unreimbursed medical expenses of any elderly family or disabled family;

(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(iii) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(iv) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(v) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed $480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vi) SPOUSAL SUPPORT EXPENSES.—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) $550 for

each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vii) EARNED INCOME OF MINORS.—The amount of any earned income of a member of the family who is not—

(I) 18 years of age or older; and

(II) the head of the household (or the spouse of the head of the household).

(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

(i) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.

(ii) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

(I) all earned income of the family,[3]

(II) the amount earned by particular members of the family;

(III) the amount earned by families having certain characteristics; or

(IV) the amount earned by families or members during certain periods or from certain sources.

(iii) OTHERS.—Such other amounts for other purposes, as the public housing agency may establish.

(6) PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''public housing agency'' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing.

(B) SECTION 1437f PROGRAM.—For purposes of the program for tenant-based assistance under section 1437f of this title, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 1437f of this title (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance[4] section 1437f of this title, or is not performing effectively—

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 1437f of this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 1437f of this title; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 1437f of this title, without regard to any otherwise applicable limitations on its area of operation.

(7) The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term ''Secretary'' means the Secretary of Housing and Urban Development.

(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 802 of title 21).

(10) MIXED-FINANCE PROJECT.—The term ''mixed-finance project'' means a public housing project that meets the requirements of section 1437z–7 of this title.

(11) PUBLIC HOUSING AGENCY PLAN.—The term ''public housing agency plan'' means the plan of a public housing agency prepared in accordance with section 1437c–1 of this title.

(12) CAPITAL FUND.—The term ''Capital Fund'' means the fund established under section 1437g(d) of this title.

(13) OPERATING FUND.—The term ''Operating Fund'' means the fund established under section 1437g(e) of this title.

(c) Definition of terms used in reference to public housing

When used in reference to public housing:

(1) The term ''development'' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term ''development cost'' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term ''operation'' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project.

[3] So in original. The comma probably should be a semicolon.

[4] So in original. Probably should be ''assistance under''.

The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term ''tenant programs and services'' includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term ''acquisition cost'' means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.

(4) The term ''congregate housing'' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(5) The terms ''group home'' and ''independent living facility'' have the meanings given such terms in section 8013(k) of this title.

(d) Disallowance of earned income from rent determinations

(1) In general

Notwithstanding any other provision of law, the rent payable under subsection (a) of this section by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

(2) Phase-in of rent increases

Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

(3) Eligible families

A family described in this paragraph is a family—

(A) that—

(i) occupies a dwelling unit in a public housing project; or

(ii) receives assistance under section 1437f of this title; and

(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and whose earned income increases.

(4) Applicability

This subsection and subsection (e) of this section shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) of this section shall apply with respect to any family described in paragraph 3(A)(ii)[5] only to the extent provided in advance in appropriations Acts.

(e) Individual savings accounts

(1) In general

In lieu of a disallowance of earned income under subsection (d) of this section, upon the request of a family that qualifies under subsection (d) of this section, a public housing agency may establish an individual savings account in accordance with this subsection for that family.

(2) Deposits to account

The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) of this section as a result of employment.

(3) Withdrawal from account

Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

(f) Availability of income matching information

(1) Disclosure to PHA

A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Devel-

[5] So in original. Probably should be paragraph ''(3)(A)(ii)''.

opment pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this chapter on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

(2) Families covered

A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit;

(B) for which tenant-based assistance is provided under section 1437f of this title,[6] or

(C) for which project-based assistance is provided under section 1437f of this title, section 1437bb[7] of this title, or section 811.[7]

(Sept. 1, 1937, ch. 896, title I, §3, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 654; amended Pub. L. 94–375, §2(f), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–557, title II, §206(c), Oct. 31, 1978, 92 Stat. 2091; Pub. L. 96–153, title II, §202(a), Dec. 21, 1979, 93 Stat. 1106; Pub. L. 97–35, title III, §322(a), Aug. 13, 1981, 95 Stat. 400; Pub. L. 98–181, title II, §§202, 206(a)–(c), Nov. 30, 1983, 97 Stat. 1178, 1179; Pub. L. 98–479, title I, §102(b)(1)–(3), Oct. 17, 1984, 98 Stat. 2221; Pub. L. 100–242, title I, §§102(a), 111, 170(c), Feb. 5, 1988, 101 Stat. 1821, 1823, 1867; renumbered title I and amended Pub. L. 100–358, §§4, 5, June 29, 1988, 102 Stat. 680, 681; Pub. L. 101–235, title III, §302, Dec. 15, 1989, 103 Stat. 2043; Pub. L. 101–625, title V, §§515(b), 572, 573(a)–(d), 574, Nov. 28, 1990, 104 Stat. 4199, 4236–4238; Pub. L. 102–550, title I, §§102–103(a)(2), 185(c)(4), title VI, §§621, 622(c), 625(a)(1), Oct. 28, 1992, 106 Stat. 3683, 3748, 3812, 3817, 3820; Pub. L. 103–233, title III, §301, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104–99, title IV, §402(b)(1), (c), Jan. 26, 1996, 110 Stat. 40, 41; Pub. L. 104–330, title V, §501(b)(1), Oct. 26, 1996, 110 Stat. 4041; Pub. L. 105–276, title V, §§506, 507(a), (c), 508(a), (b)(1), (c)(1), (d)(1), 520(a), 523, 524(a), 546, Oct. 21, 1998, 112 Stat. 2523–2529, 2562, 2565–2567, 2604; Pub. L. 106–74, title II, §214(a), Oct. 20, 1999, 113 Stat. 1074; Pub. L. 106–402, title IV, §401(b)(7), Oct. 30, 2000, 114 Stat. 1738.)

REFERENCES IN TEXT

Section 1437f(c)(3)(B) of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105–276, title V, §550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

Section 519(d) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (a)(2)(A)(ii), is section 519(d) of Pub. L. 105–276 which is set out as a note below.

The effective day of such Act and the effective date of such Act, referred to in subsecs. (a)(2)(A)(ii) and (b)(6)(B)(ii), probably means the general effective date for the Quality Housing and Work Responsibility Act of 1998, Pub. L. 105–276, title V, included in section 503 of the Act which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section 206(d) of the Housing and Urban-Rural Recovery Act of 1983, referred to in subsec. (a)(3)(A), is section 206(d) of Pub. L. 98–181, which is set out as a note below.

The Immigration and Nationality Act, referred to in subsec. (a)(3)(B)(i)(I), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(3)(B)(i)(I), is title IV (§400 et seq.) of Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2260, as amended. For complete classification of title IV to the Code, see Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(6)(B)(ii), is section 503(a) of Pub. L. 105–276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The Social Security Act, referred to in subsec. (d)(3)(B)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 1437bb of this title, referred to in subsec. (f)(2)(C), was repealed by Pub. L. 104–330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041.

Section 811, referred to in subsec. (f)(2)(C), means section 811 of the United States Housing Act of 1937, but that Act does not contain a section 811.

PRIOR PROVISIONS

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, established the United States Housing Authority and was classified to section 1403 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1402 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2000—Subsec. (b)(3)(E)(iii). Pub. L. 106–402 substituted ''section 15002 of this title'' for ''section 6001 of this title''.

1999—Subsec. (f)(1). Pub. L. 106–74, §214(a)(1), inserted '', or the owner responsible for determining the participant's eligibility or level of benefits,'' after ''A public housing agency'' and '', or to the owner responsible for determining the participant's eligibility or level of benefits'' before period at end.

Subsec. (f)(2)(C). Pub. L. 106–74, §214(a)(2), added subpar. (C).

1998—Subsec. (a)(1). Pub. L. 105–276, §507(c), inserted ''and subject to the requirement under paragraph (3)'' after ''paragraph (2)'' in third sentence.

Subsec. (a)(2). Pub. L. 105–276, §523, amended par. (2) generally. For prior text, see 1996 Amendment note below.

Subsec. (a)(3). Pub. L. 105–276, §507(a), added par. (3).

Subsec. (a)(4), (5). Pub. L. 105–276, §524(a), added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 105–276, §506(1), inserted after second sentence ''The term 'public housing' includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance.''

Subsec. (b)(2). Pub. L. 105–276, §508(c)(1), substituted ''limits for Westchester and Rockland Counties'' for ''limits for Westchester County'', inserted ''each'' before ''such county'', substituted ''include Westchester or Rockland Counties'' for ''include Westchester County'' and ''included Westchester and Rockland Counties'' for ''included Westchester County'', and inserted at end ''In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.''

[6] So in original. The comma probably should be a semicolon.

[7] See References in Text notes below.

Subsec. (b)(3)(A). Pub. L. 105–276, § 506(2)(A), struck out at end ''In determining priority for admission to housing under this chapter, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.''

Subsec. (b)(3)(B). Pub. L. 105–276, § 506(2)(B), substituted ''public housing agency plan'' for ''regulations of the Secretary'' in second sentence.

Subsec. (b)(3)(E). Pub. L. 105–276, § 506(3), inserted at end ''Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.''

Subsec. (b)(5). Pub. L. 105–276, § 508(a), amended par. (5) generally, substituting present provisions for provisions which had defined ''adjusted income'' as income which remained after excluding $550 for each member of family in household under 18 years of age, disabled, or a student, $400 for any elderly or disabled family, the amount by which medical and related expenses exceeded 3 percent of income, child care expenses, 10 percent of earned income, and any payment made for support and maintenance of nonresident child, spouse, or former spouse.

Subsec. (b)(6). Pub. L. 105–276, § 546, amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.''

Subsec. (b)(9) to (13). Pub. L. 105–276, § 506(4), added pars. (9) to (13).

Subsec. (c). Pub. L. 105–276, § 508(b)(1)(A), which directed the amendment of subsec. (c) by striking out the undesignated par. after par. (3), was executed by striking out concluding provisions after par. (5), to reflect the probable intent of Congress. Concluding provisions read as follows: ''The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 1437t of this title, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

''(1) the period that the resident participates in such program; and

''(2) the period that—

''(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this chapter; and

''(B) ends on the earlier of—

''(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

''(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).''

Subsec. (c)(1). Pub. L. 105–276, § 520(a), inserted before period at end of second sentence '', but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary''.

Subsecs. (d), (e). Pub. L. 105–276, § 508(b)(1)(B), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 105–276, § 508(d)(1), added subsec. (f).

1996—Subsec. (a)(2). Pub. L. 104–99, § 402(b)(1), (f), temporarily amended par. (2) generally, substituting

''(2) Notwithstanding paragraph (1), a public housing agency may—

''(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

''(i) to operate the housing of the agency; and

''(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

''(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).'' for

''(2)(A) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency (or in low-income housing assisted under section 1437f of this title that contains more than 2,000 dwelling units) shall pay as monthly rent an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

''(i) is established by such agency and approved by the Secretary;

''(ii) is not more than the amount payable as rent by such family under paragraph (1); and

''(iii) is not less than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

''(B) The terms of all ceiling rents established prior to December 15, 1989, shall be extended without time limitation.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(5)(F). Pub. L. 104–330, § 501(b)(1)(A)(i), inserted ''and'' after semicolon.

Subsec. (b)(5)(G). Pub. L. 104–330, § 501(b)(1)(A)(ii), (iii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: ''excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and''.

Subsec. (b)(5)(H). Pub. L. 104–330, § 501(b)(1)(A)(iii), redesignated subpar. (H) as (G).

Pub. L. 104–99, § 402(c), (f), temporarily added subpar. (H) which read ''for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 1437g of this title for the public housing agency for the operation of the public housing.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(6). Pub. L. 104–330, § 501(b)(1)(B), struck out at end ''The term includes any Indian housing authority.''

Subsec. (b)(7). Pub. L. 104–330, § 501(b)(1)(C), inserted ''and'' before ''the Trust'' and struck out '', and Indian tribes'' after ''Pacific Islands''.

Subsec. (b)(9) to (12). Pub. L. 104–330, § 501(b)(1)(D), struck out pars. (9) to (12) which read as follows:

''(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

''(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide low-income housing.

''(11) The term 'Indian housing authority' means any entity that—

''(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

''(B) is established—

''(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

''(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

''(12) The term 'Indian tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.''

1994—Subsec. (b)(3)(B). Pub. L. 103–233 substituted ''includes families with children and'' for ''means families with children''.

1992—Subsec. (a)(1). Pub. L. 102–550, § 185(c)(4), substituted ''section 1437f(*o*) or (y) of this title or paying rent under section 1437f(c)(3)(B) of this title'' for ''section 1437f(*o*) of this title''.

Subsec. (a)(2)(A). Pub. L. 102–550, § 102(a), struck out ''for not more than a 5-year period'' after ''monthly rent''.

Subsec. (a)(2)(B). Pub. L. 102–550, § 102(b), struck out first sentence which read as follows: ''The 5-year limitation established in subparagraph (A) shall not apply to any family residing in a public housing project administered by an Indian public housing agency.'' and substituted ''without time limitation'' for ''for the 5-year period beginning on December 15, 1989''.

Subsec. (b)(3). Pub. L. 102–550, § 621, amended par. (3) generally, substituting present provisions for provisions relating to families consisting of single persons, elderly families, handicapped persons, displaced persons, and families with household heads 50 years old or older and the priorities for admission of such families and persons to housing under this chapter.

Subsec. (b)(4). Pub. L. 102–550, § 103(a)(1), inserted ''and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title'' after ''family''.

Subsec. (b)(5)(B). Pub. L. 102–550, § 625(a)(1), inserted ''or disabled'' after ''elderly''.

Subsec. (b)(5)(D). Pub. L. 102–550, § 103(a)(2)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: ''(i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education; or (ii) excessive travel expenses, not to exceed $25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities;''.

Subsec. (b)(5)(G). Pub. L. 102–550, § 103(a)(2)(B)–(D), added subpar. (G).

Subsec. (c)(4), (5). Pub. L. 102–550, § 622(c), which directed the amendment of subsec. (c) by inserting pars. (4) and (5) after ''project.'', was executed by making the insertion after ''project.'' at the end of par. (3), to reflect the probable intent of Congress.

1990—Pub. L. 101–625, § 515(b), added concluding undesignated par. directing that earnings and benefits to public housing residents resulting from participation in programs providing employment training and supportive services not be considered as income.

Subsec. (a)(1). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' in introductory provisions.

Subsecs. (a)(2)(A), (b)(1). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

Subsec. (b)(2). Pub. L. 101–625, § 573(d), inserted sentences at end relating to determination or establishment of median incomes and income ceilings and limits for Westchester County and for metropolitan statistical areas outside Westchester County.

Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' wherever appearing.

Subsec. (b)(3). Pub. L. 101–625, § 574, inserted sentence at end relating to effect of temporary absence of child from the home due to placement in foster care on considerations of family composition and size.

Pub. L. 101–625, § 573(a), substituted ''(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this chapter of 2 bedrooms or more.'' for ''(D) other single persons in circumstances described in regulations of the Secretary.'' in first sentence, struck out after first sentence ''In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D).'', and struck out third from last sentence which was executed (to reflect the probable intent of Congress) by striking out third sentence from end which read as follows: ''The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the public housing agency involved, the Secretary determines that the dwelling units involved are neither being occupied, nor are likely to be occupied within the next 12 months, by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D).''

Subsec. (b)(4). Pub. L. 101–625, § 573(b), inserted before period at end '', except that any amounts not actually received by the family may not be considered as income under this paragraph''.

Subsec. (b)(5)(A). Pub. L. 101–625, § 573(c)(1), substituted ''$550'' for ''$480''.

Subsec. (b)(5)(C). Pub. L. 101–625, § 573(c)(2), struck out ''elderly'' before ''family'' in cl. (i) and struck out ''and'' at end.

Subsec. (b)(5)(E), (F). Pub. L. 101–625, § 573(c)(3), added subpars. (E) and (F).

Subsecs. (b)(6), (10), (11)(A), (c). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

1989—Subsec. (a)(2)(A). Pub. L. 101–235, § 302(1), substituted ''5-year period'' for ''3-year period''.

Subsec. (a)(2)(B). Pub. L. 101–235, § 302(2), substituted ''5-year limitation'' for ''3-year limitation'' and inserted at end ''The terms of all ceiling rents established prior to December 15, 1989, shall be extended for the 5-year period beginning on December 15, 1989.''

1988—Subsec. (a). Pub. L. 100–242, § 102(a), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), a'' for ''A'', redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (b)(3). Pub. L. 100–242, § 170(c), in cl. (A), substituted ''sixty-two years of age,'' for ''sixty-two years of age or'', and '', has a developmental disability as defined in section 6001(7) of this title'' for ''or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970''.

Pub. L. 100–242, § 111, inserted provisions relating to determination of priority admission to public housing projects designed for elderly families.

Subsec. (b)(5)(D). Pub. L. 100–358, § 4(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(6). Pub. L. 100–358, § 4(b), inserted at end ''The term includes any Indian housing authority.''

Subsec. (b)(7). Pub. L. 100–358, § 4(c), struck out '', bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States'' after ''and Indian tribes''.

Subsec. (b)(9) to (12). Pub. L. 100–358, § 4(d)–(g), added pars. (9) to (12).

1984—Subsec. (b)(2). Pub. L. 98–479, § 102(b)(1), inserted provision at end that such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply.

Subsec. (b)(4). Pub. L. 98–479, § 102(b)(2), inserted '', in consultation with the Secretary of Agriculture'' at end.

Subsec. (b)(5)(C). Pub. L. 98–479, § 102(b)(3), designated existing provision as cl. (i), added cl. (ii), and inserted ''the amount by which the aggregate of the following expenses of the family'' in provisions preceding cl. (i).

1983—Subsec. (a). Pub. L. 98–181, § 206(a), in provisions preceding par. (1), inserted provision requiring annual review of family income, and inserted ''(other than a family assisted under section 1437f(*o*) of this title)''.

Subsec. (b)(2). Pub. L. 98–181, § 206(b), qualified the term ''very low-income families'' in authorizing the Secretary to establish, where necessary, variations in income ceilings higher or lower than 50 per centum of the median for the area.

Subsec. (b)(3). Pub. L. 98–181, § 202, inserted provision at end of par. (3) authorizing increase from 15 to 30 per centum in the single person occupancy limitation for nonoccupancy of the involved dwelling units.

Subsec. (b)(5). Pub. L. 98–181, § 206(c), amended par. (5) generally, substituting provisions designating cls. (A) to (D) for prior exclusion from ''adjusted income'' of

such amounts or types of income as the Secretary might prescribe, taking into account the number of minor children and other appropriate factors.

1981—Pub. L. 97–35 added subsecs. (a) and (c) and designated provisions constituting former section as subsec. (b), and in subsec. (b) as so designated, substituted provisions defining ''lower income housing'', ''lower income families'', ''families'', ''income'', ''adjusted income'', ''public housing agency'', ''State'', and ''Secretary'' for provisions defining ''low-income housing'', ''low-income families'', ''development'', ''operation'', ''acquisition cost'', ''public housing agency'', ''State'', ''Secretary'', and ''low-income housing project''.

1979—Par. (1). Pub. L. 96–153 substituted provisions that the rental for a dwelling shall not exceed certain portion of the resident family's income to be established by the Secretary, and that in the case of a very low income family 25 per centum and in other cases 30 per centum of family income for provisions that such rental shall not exceed one-fourth of the family's income as defined by the Secretary.

1978—Par. (2)(D). Pub. L. 95–557 substituted ''15 per cent'' for ''10 per cent''.

1976—Par. (2). Pub. L. 94–375 struck out ''and'' before cl. (C), added cl. (D), and two provisos relating to the percentage of units to be occupied by single persons and the priority to be given to single persons who are elderly, handicapped, or displaced, following cl. (D).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, § 507(d), Oct. 21, 1998, 112 Stat. 2526, provided that: ''The amendments under this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

Pub. L. 105–276, title V, § 508(c)(2), Oct. 21, 1998, 112 Stat. 2529, provided that: ''The amendments made by this paragraph [probably means this subsection, amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

Pub. L. 105–276, title V, § 524(b), Oct. 21, 1998, 112 Stat. 2568, provided that: ''The amendment made by this paragraph [probably means this section, amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Pub. L. 105–276, title V, § 514(f), Oct. 21, 1998, 112 Stat. 2548, provided that: ''Section 402 of The Balanced Budget Downpayment Act, I [Pub. L. 104–99, see note below], and the amendments made by such section shall cease to be effective on the date of the enactment of this Act [Oct. 21, 1998]. Notwithstanding the inclusion in this Act [see Tables for classification] of any provision extending the effectiveness of such section or such amendments, such provision included in this Act shall not take effect.''

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Section 402(f) of Pub. L. 104–99, as amended by Pub. L. 104–204, title II, § 201(c)(2), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–65, title II, § 201(d)(2), Oct. 27, 1997, 111 Stat. 1364, provided that: ''This section [amending this section, sections 1437d to 1437f, 1437n, 1437v, and 13615 of this title, and section 1701s of Title 12, Banks and Banking, enacting provisions set out as notes under this section and sections 1437 and 1437d of this title, and amending provisions set out as a note under section 1437f of this title] shall be effective upon the enactment of this Act [Jan. 26, 1996] and only for fiscal years 1996, 1997, and 1998.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 103(a)(3) of title I of Pub. L. 102–550 provided that: ''To the extent that the amendments made by paragraphs (1) and (2) [amending this section] result in additional costs under this title [see Tables for classification], such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.''

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 573(f) of Pub. L. 101–625 provided that: ''The Secretary shall issue regulations implementing subsections (a) and (d) [sic] the amendments made by this section [amending this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]. The regulations may not take effect until after September 30, 1991.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6 of Pub. L. 100–358 provided that: ''The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act [enacting sections 1437aa to 1437ee of this title, amending this section and section 1437c of this title, and enacting provisions set out as a note under section 1437 of this title], commencing on whichever of the following occurs earlier:

''(1) EFFECTIVE DATE OF REGULATIONS.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937 [former section 1437ee of this title].

''(2) 90 DAYS.—The expiration of the 90-day period beginning on the date of the enactment of this Act [June 29, 1988].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 202(c) of Pub. L. 96–153, which provided that amendment by section 202(a) of Pub. L. 96–153 (amending this section and section 1437f of this title) shall become effective on Jan. 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under this chapter commenced prior to that date shall be determined in accordance with the provisions of this chapter in effect on Dec. 31, 1979, so long as such occupancy was continuous thereafter, was repealed by Pub. L. 97–35, title III, § 322(h)(1), Aug. 13, 1981, 95 Stat. 404.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 CFR 860.409, Sept. 26, 1975,

40 F.R. 44326, which provided: ''The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, CFR] are published in the Federal Register (September 26, 1975).''

REGULATIONS

Section 402(b)(2) of Pub. L. 104–99 provided that:

''(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)(2)(A)], as amended by paragraph (1).

''(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

''(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act [Jan. 26, 1996];

''(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

''(iii) equal to the fair market rent for the area in which the unit is located.''

[Section 402(b)(2) of Pub. L. 104–99, set out above, effective Jan. 26, 1996, and only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see Effective and Termination Dates of 1996 Amendments notes above.]

Section 191 of title I of Pub. L. 102–550 provided that: ''The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [see Tables for classification] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''

SAVINGS PROVISION

Pub. L. 105–276, title V, §508(b)(2), Oct. 21, 1998, 112 Stat. 2528, provided that: ''Notwithstanding the amendment made by paragraph (1) [amending this section], the provisions of the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 [see 1998 and 1992 Amendment notes above], as such section was in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply until the effective date under section 503 of this Act [set out as a note under section 1437 of this title]. Notwithstanding the amendment made by subsection (a) of this section [amending this section], nor the applicability under section 402(f) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99] (42 U.S.C. 1437a note) of the amendments made by such section 402 [see Effective and Termination Dates of 1996 Amendments note set out above], nor any repeal of such section 402(f), the provisions of section 3(b)(5)(G) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(G)), as such section was in effect immediately before the date of the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TRANSITIONAL CEILING RENTS

Pub. L. 105–276, title V, §519(d), Oct. 21, 1998, 112 Stat. 2561, provided that: ''Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a[(a)](1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of [section 9 of] such Act [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

''(1) NEW PROVISIONS.—An agency may—

''(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

''(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

''(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

''(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

''(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

''(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act [Oct. 21, 1998], notwithstanding any amendment to such section made by this Act.

''(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99] (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).''

CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND AMOUNT OF NEED-BASED BENEFITS AND SERVICES

Pub. L. 103–286, §1, Aug. 1, 1994, 108 Stat. 1450, provided that:

''(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

''(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act [Aug. 1, 1994] with respect to payments referred to in subsection (a) made before, on, or after such date.

''(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act [Aug. 1, 1994] under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

''(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in

subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

''(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

''(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

''(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term 'qualified individual' means an individual who—

''(A) has received any payment because of the individual's status as a victim of Nazi persecution;

''(B) at any time during the period beginning on February 1, 1993 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

''(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

''(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

''(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

''(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

''(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

''(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

''(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

''(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act [Aug. 1, 1994].''

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Section 626 of Pub. L. 102–550 provided that: ''The amendments made by this subtitle [subtitle B (§§ 621–626) of title VI of Pub. L. 102–550, amending this section and sections 1437c to 1437f, 1437*l*, 1437*o*, 1438, and 8013 of this title] shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

BUDGET COMPLIANCE

Section 573(e) of Pub. L. 101–625 provided that: ''The amendments made by subsections (b) and (c) [amending this section] shall apply only to the extent approved in appropriations Acts.''

MEDIAN AREA INCOME

Section 567 of Pub. L. 100–242 provided that: ''For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

''(1) the median income of the county in which the area is located; or

''(2) the median income of the entire nonmetropolitan area of the State.''

DETERMINATION OF RENT PAYABLE BY TENANTS OCCUPYING ASSISTED HOUSING; DELAYED APPLICATION OR STAGED IMPLEMENTATION OF AMENDED PROVISIONS

Section 206(d) of Pub. L. 98–181 provided that:

''(1) The following provisions of this paragraph apply to determinations of the rent to be paid by or the contribution required of a tenant occupying housing assisted under the authorities amended by this section [amending this section] or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 [amending sections 1437 to 1437d, 1437f, 1437g, 1437i, 1437j, and 1437*l* of this title and sections 1701s and 1715z–1 of Title 12, Banks and Banking, and repealing provisions set out as notes under this section and section 1701s of Title 12] (hereinafter referred to as 'assisted housing') on or before the effective date of regulations implementing this section:

''(A) Notwithstanding any other provision of this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, the Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') may provide for delayed applicability, or for staged implementation, of the procedures for determining rents or contributions, as appropriate, required by such provisions if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants.

''(B) The Secretary shall provide that the rent or contribution, as appropriate, required to be paid by a tenant shall not increase as a result of the amendments made by this section and subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, and as a result of any other provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

''(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent payment or contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such law or regulation.

''(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 [sec-

tion 1490a(a)(1) of this title] on the effective date of this section [Nov. 30, 1983] whose assistance is converted to assistance under section 8 of the United States Housing Act of 1937 [section 1437f of this title] on or after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

''(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z–1(f)(2)], or section 23 of the United States Housing Act of 1937 [section 1421b of this title] (as in effect before the date of the enactment of the Housing and Community Development Act of 1974 [Aug. 22, 1974]) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such conversion, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

''(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section [Nov. 30, 1983], the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older on the date of such conversion shall be computed as if the tenant's rental payment or contribution had, on the date of conversion, been the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant's income.

''(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

''(6) As used in this subsection, the term 'contribution' means an amount representing 30 per centum of a tenant's monthly adjusted income, 10 per centum of the tenant's monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant under section 3(a) of the United States Housing Act of 1937 [subsec. (a) of this section].

''(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of such amendments [Aug. 13, 1981], except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.''

Prior provisions for determining rent payable by tenants occupying assisted housing under and authorizing delayed application or staged implementation of provisions amended by section 322 of Pub. L. 97–35 were contained in Pub. L. 97–35, title III, § 322(i), Aug. 13, 1981, 95 Stat. 404, which was repealed by Pub. L. 98–181, title II, § 206(e), Nov. 30, 1983, 97 Stat. 1181.

ESTABLISHMENT OF INCREASED MONTHLY RENTAL CHARGE FOR FAMILY OCCUPYING LOW-INCOME HOUSING UNIT; ADJUSTMENT FACTORS

Section 202 of Pub. L. 93–383 provided that: ''To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 201(a) of this Act [par. (1) of this section], would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date note set out above], the required adjustment shall be made, in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed $5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 6(c)(2) of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed $5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge.''

§ 1437a–1. Repealed. Pub. L. 105–276, title V, § 582(a)(1), Oct. 21, 1998, 112 Stat. 2643

Section, Pub. L. 101–625, title V, § 519, Nov. 28, 1990, 104 Stat. 4202, authorized public housing rent waiver for police officers. See section 1437a(a)(4) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437b. Loans and commitments to make loans for low-income housing projects

(a) Authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency

The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) Issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of the Treasury

The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with

public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c) Public and Indian housing financing reforms

(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) of this section that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On April 7, 1986, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) of this section, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) of this section during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

(Sept. 1, 1937, ch. 896, title I, § 4, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 656; amended Pub. L. 97–35, title III, § 322(c), Aug. 13, 1981, 95 Stat. 402; Pub. L. 98–479, title II, § 203(b)(1), Oct. 17, 1984, 98 Stat. 2229; Pub. L. 99–272, title III, § 3004, Apr. 7, 1986, 100 Stat. 102; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, § 572(2), Nov. 28, 1990, 104 Stat. 4236.)

PRIOR PROVISIONS

A prior section 4 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, provided for assistance of officers, etc., of other agencies and transfer of property to the Authority and was classified to section 1404 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–625 substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

1986—Subsec. (c). Pub. L. 99–272 added subsec. (c).

1984—Subsec. (b). Pub. L. 98–479 substituted ''chapter 31 of title 31'' for ''the Second Liberty Bond Act, as amended'' and ''such chapter'' for ''such Act''.

1981—Subsec. (a). Pub. L. 97–35 substituted reference to lower income for reference to low-income in two places.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

CARRYOVER OF AMOUNTS OF BUDGET AUTHORITY; AVAILABILITY AS APPROPRIATION OF FUNDS FOR GRANTS

Pub. L. 99–500, § 101(g) [H.R. 5313, title I], Oct. 18, 1986, 100 Stat. 1783–242, and Pub. L. 99–591, § 101(g) [H.R. 5313, title I], Oct. 30, 1986, 100 Stat. 3341–242; Pub. L. 100–202, § 106, Dec. 22, 1987, 101 Stat. 1329–433, provided in part: ''That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided in appropriations Acts by $7,805,668,000: *Provided further*, That any part of the amount of the increase in budget authority provided for in the immediately foregoing proviso that is available under this Act for public housing development and acquisition costs or which is to be used for amendments for such costs, shall be available as an appropriation of funds, to remain available until expended, for grants, which are hereby authorized in lieu of loans under section 4(a) of the United States Housing Act of 1937 (42 U.S.C. 1437b), and which the Secretary may make on substantially the same terms (except for repayment unless repayment is a properly imposed sanction) as those heretofore set forth in annual contributions contracts for loans and annual contributions: *Provided further*, That during 1987 and thereafter, any amounts of budget authority which are carried over from a prior year, or which are otherwise available for obligation, and which are available for public housing development and acquisition costs, together with any amounts of budget authority which are to be used for amendments for such costs, in accordance with any Act, shall also be made available as an appropriation of funds for grants, under the same terms as those applying under the immediately preceding proviso''.

§ 1437c. Contributions for low-income housing projects

(a) Contract authorization; amounts; use as security for obligations of public housing agency; use of existing structures

(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income

character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for low-income housing use and obtained in the local market.

(b) Maximum amount of contributions; regulations; criteria for rates of contribution

The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c) Limitation on aggregate contractual contributions; contracts for preliminary loans; payments of annual contributions; limitations on specific authorities

(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980, and by $906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 1437b(b) of this title (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of public housing development authority for use under section 1437g of this title or for use for the acquisition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 1437*o* of this title is increased by $9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 1437f of this title, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2) of this section, not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(*o*) of this title;

(iii) for comprehensive improvement assistance grants under section 1437*l*(k) of this title, not more than $3,100,000,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $93,032,000;

(v) for assistance under section 1437f of this title for loan management, not more than $202,000,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 1437f of this title and for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,350,000,000;

(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $12,767,000; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2) of this section, not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(*o*) of this title;

(iii) for comprehensive improvement assistance grants under section 1437*l*(k) of this title, not more than $3,230,200,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $96,939,344;

(v) for assistance under section 1437f of this title for loan management, not more than $210,484,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title and for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $13,303,214; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 1437f(b)(1) of this title, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(ii) Any amount available for assistance under section 1437f of this title for property disposition, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(8) Any amount available for Indian housing under subsection (a) of this section that is recaptured shall be used only for such housing.

(d) Scope of contracts for loans or annual contributions

Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions; notice

In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the

Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this chapter unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this chapter; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).

(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception

In addition to the authority of the Secretary under subsection (a) of this section to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) Audits

(1) By Secretary and Comptroller General

Each contract for contributions for any assistance under this chapter to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this chapter and to its operations with respect to financial assistance under the this[1] chapter.

(2) Withholding of amounts for audits under Single Audit Act

The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this chapter, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.

(i) Prohibition on use of funds

None of the funds made available to the Department of Housing and Urban Development to carry out this chapter, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

(Sept. 1, 1937, ch. 896, title I, § 5, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 656; amended Pub. L. 94–375, § 2(a), (b), Aug. 3, 1976, 90 Stat. 1067; Pub. L. 95–24, title I, § 101(a), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, § 201(a), (b), Oct. 12, 1977, 91 Stat. 1128; Pub. L. 95–557, title II, § 206(a), (b), Oct. 31, 1978, 92 Stat. 2091; Pub. L. 95–619, title II, § 251(a), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title II, § 201(a), (b), Dec. 21, 1979, 93 Stat. 1105; Pub. L. 96–399, title II, §§ 201(a), 210, Oct. 8, 1980, 94 Stat. 1624, 1636; Pub. L. 97–35, title III, §§ 321(a)–(c), 322(c), Aug. 13, 1981, 95 Stat. 398, 402; Pub. L. 98–181, title II, § 201(b), Nov. 30, 1983, 97 Stat. 1176; Pub. L. 100–242, title I, §§ 101, 112(a), (b)(1), 113–115, Feb. 5,

[1] So in original.

1988, 101 Stat. 1820, 1823–1825; renumbered title I and amended Pub. L. 100–358, §§ 3, 5, June 29, 1988, 102 Stat. 680, 681; Pub. L. 101–625, title IV, § 417(a), title V, §§ 571, 572(2), Nov. 28, 1990, 104 Stat. 4161, 4235, 4236; Pub. L. 102–550, title I, §§ 101, 111(a), title VI, § 624, Oct. 28, 1992, 106 Stat. 3681, 3687, 3819; Pub. L. 104–19, title I, § 1002(c), July 27, 1995, 109 Stat. 236; Pub. L. 104–330, title V, § 501(b)(2), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §§ 510, 518(a)(1), (b), 522(b)(1), 566, Oct. 21, 1998, 112 Stat. 2531, 2551, 2564, 2632.)

REFERENCES IN TEXT

Section 1437*o* of this title, referred to in subsec. (c)(6), was repealed by Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 1437*l* of this title, referred to in subsec. (c)(7)(A)(iii), (B)(iii), was repealed by Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 1421b of this title, referred to in subsec. (c)(7)(A)(ix), (B)(ix), was omitted in the general revision of this chapter by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.

The Single Audit Act, referred to in subsec. (h)(2) heading, probably means the Single Audit Act of 1984, Pub. L. 98–502, Oct. 19, 1984, 98 Stat. 2327, which is classified generally to chapter 75 (§ 7501 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 5 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated miscellaneous powers and functions of the Authority and was classified to section 1405 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (c)(5). Pub. L. 105–276, § 522(b)(1), substituted ''for use under section 1437g of this title'' for ''for use under section 1437*l* of this title''.

Subsec. (e)(2). Pub. L. 105–276, § 518(b), inserted before period at end ''; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law)''.

Subsec. (h). Pub. L. 105–276, § 566, added subsec. (h).

Pub. L. 105–276, § 518(a)(1)(A), struck out subsec. (h) which read as follows: ''Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its lower income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.''

Subsec. (i). Pub. L. 105–276, § 518(a)(1), redesignated subsec. (*l*) as (i) and struck out former subsec. (i) which read as follows: ''In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 1437f of this title), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.''

Subsecs. (j), (k). Pub. L. 105–276, § 518(a)(1)(A), struck out subsecs. (j) and (k), which had: in subsec. (j), placed conditions upon reservation of funds for development of public housing after Sept. 30, 1987, and placed limitations on amounts used for redesign, reconstruction, redevelopment, or operational improvement of existing projects, but directed that not less than 5 percent of certain amounts appropriated in fiscal years 1993 and 1994 be reserved for public housing projects designated for elderly or disabled families; and in subsec. (k), prohibited recapture of amounts of public housing development funds reserved to a public housing agency for failure to begin construction or rehabilitation, or to complete acquisition, during 30-month period following date of reservation.

Subsec. (*l*). Pub. L. 105–276, § 518(a)(1)(B), redesignated subsec. (*l*) as (i).

Pub. L. 105–276, § 510, added subsec. (*l*).

1996—Subsec. (j)(1). Pub. L. 104–330, § 501(b)(2)(A), struck out ''(other than for Indian families)'' after ''for public housing'' in introductory provisions.

Subsec. (*l*). Pub. L. 104–330, § 501(b)(2)(B), struck out subsec. (*l*) which read as follows: ''The Secretary may not use as a criterion for distributing assistance under this section the progress made by an Indian public housing agency in collecting rents owed by tenants unless—

''(1) such criterion is used as 1 of several criteria that are weighted proportionally and is established by regulations issued after public notice and opportunity to comment in accordance with section 553 of title 5; or

''(2) the Secretary determines that the Indian public housing agency has demonstrated a pattern of substantial noncompliance with requirements governing the collection of rents.''

1995—Subsec. (h). Pub. L. 104–19 struck out at end ''Any such sale shall be subject to the restrictions contained in section 1437aaa–3(g) of this title.''

1992—Subsec. (c)(6). Pub. L. 102–550, § 101(a), inserted at end ''The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.''

Subsec. (c)(7)(A), (B). Pub. L. 102–550, § 101(b), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which directed Secretary to reserve authority to enter into certain obligations aggregating specified amounts using par. (6) budget authority and balances of such authority available in fiscal years 1991 and 1992.

Subsec. (j)(1)(D). Pub. L. 102–550, § 624(c)(1), which directed the striking of ''and'' at end, was executed by striking ''or'' at end to reflect the probable intent of Congress.

Subsec. (j)(1)(E). Pub. L. 102–550, § 624(c)(3), which directed amendment of subsec. (j)(1) by adding at the end a new subpar. (E), was executed by adding subsec. (E) after subpar. (D) to reflect the probable intent of Congress. Former subpar. (E) redesignated (F).

Subsec. (j)(1)(F). Pub. L. 102–550, § 624(c)(2), redesignated subpar. (E) as (F).

Subsec. (j)(2). Pub. L. 102–550, § 624(a), added subpar. (G).

Pub. L. 102–550, § 111(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Notwithstanding any other provision of law, not more than 20 percent of the funds appropriated for development of public housing also may be committed by the Secretary for the substantial redesign, reconstruction, or redevelopment of existing public housing projects or units, which work shall be carried out pursuant to the rules and regulations applicable to the development of public housing.''

Subsec. (j)(3). Pub. L. 102–550, § 624(b), added par. (3).

1990—Subsec. (a)(3). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing''.

Subsec. (c)(6). Pub. L. 101–625, § 571(a), inserted at end ''The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991.''

Subsec. (c)(7)(A), (B). Pub. L. 101–625, § 571(b), amended subpars. (A) and (B) generally, substituting present provisions for provisions directing Secretary to reserve authority to enter into certain obligations aggregating specified amounts using par. (6) budget authority and balances of such authority available in fiscal years 1988 and 1989.

Subsecs. (d), (e). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

Subsec. (h). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing''.

Pub. L. 101–625, § 417(a), inserted at end ''Any such sale shall be subject to the restrictions contained in section 1437aaa–3(g) of this title.''

1988—Pub. L. 100–242, § 112(b)(1)(A), substituted ''Contributions'' for ''Annual contributions'' in section catchline.

Subsec. (a). Pub. L. 100–242, § 112(a), amended subsec. (a) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single unnumbered par.

Subsec. (c)(6). Pub. L. 100–242, § 101(a), inserted sentence at end providing for increases on Oct. 1, 1987, and Oct. 1, 1988, of aggregate amount of budget authority that may be obligated for specified purposes.

Subsec. (c)(7). Pub. L. 100–242, § 101(b), amended par. (7) generally, substituting provisions relating to Secretary's authority to enter into obligations under this section for fiscal years 1988 and 1989, for provisions relating to Secretary's authority for fiscal years 1984 and 1985 and substituting provisions whereby amounts available for conversion of project to assistance under section 1437f(b)(1) of this title and amounts available for assistance under section 1437f for property disposition, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title, for provisions wherein specific authorities under this paragraph would be subject to adjustments under par. (5) of this subsection.

Subsec. (c)(8). Pub. L. 100–358, § 3, added par. (8).

Subsec. (e)(2). Pub. L. 100–242, § 112(b)(1)(B), struck out ''annual'' before ''contributions''.

Subsecs. (j) to (*l*). Pub. L. 100–242, §§ 113–115, added subsecs. (j) to (*l*).

1983—Subsec. (c)(1). Pub. L. 98–181, § 201(b)(1), struck out concluding provision requiring the Secretary, in utilizing the additional authority to enter into contracts on and after Oct. 1, 1980, to administer the authorized programs to provide assistance, to the maximum extent practicable, consistent with section 1439(d) of this title.

Subsec. (c)(2). Pub. L. 98–181, § 201(b)(2), redesignated par. (4) as (2), and struck out former par. (2) which from funds made available on Oct. 1, 1980, had required at least $100,000,000 be available for section 1437*l* projects, and from remaining difference limited use of funds to 37.5 and 62.5 per centum for existing section 1437f projects and for newly constructed and substantially rehabilitated units.

Subsec. (c)(3). Pub. L. 98–181, § 201(b)(2), redesignated par. (5) as (3), and struck out former par. (3) which from funds made available on Oct. 1, 1981, had required at least $75,000,000 be available for section 1437*l* projects, from remaining difference allocated sums as provided in section 1439(d) for different community and area uses, and from remaining difference required the accommodation of preferences of units of local government based on stated factors.

Subsec. (c)(4). Pub. L. 98–181, § 201(b)(2), redesignated par. (6) as (4). Former par. (4) redesignated (2).

Subsec. (c)(5) to (7). Pub. L. 98–181, § 201(b)(3), added pars. (5) to (7). Former pars. (5) and (6) redesignated (3) and (4), respectively.

1981—Subsec. (a). Pub. L. 97–35, § 322(c), substituted references to lower income for references to low-income wherever appearing.

Subsec. (c). Pub. L. 97–35, § 321(a)–(c), in par. (1) inserted provisions relating to increases on Oct. 1, 1981, and amount respecting additional authority as of Oct. 1, 1981, added par. (3), and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsecs. (d) to (f), (h). Pub. L. 97–35, § 322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (c). Pub. L. 96–399, § 201(a), redesignated existing provisions as par. (1), among other changes, substituted provisions relating to the discretionary power of the Secretary to enter into contracts for annual contributions for provisions authorizing the Secretary to enter into such contracts, deleted references to contributions for assistance to Indian tribes, and added pars. (2) to (5).

Subsec. (i). Pub. L. 96–399, § 210, added subsec. (i).

1979—Subsec. (c). Pub. L. 96–153 authorized increase in aggregate contractual contributions by $1,140,661,000 on Oct. 1, 1979, and inserted requirements that out of such additional authority not more than $195,053,000 be authorized to be approved in appropriation acts for units assisted under this chapter other than under section 1437f of this title and that not less than $50,000,000 of the later amount be authorized to be approved for modernization of the units.

1978—Subsec. (c). Pub. L. 95–619 authorized the Secretary to enter into annual contribution contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvement in existing low-income housing projects which the Secretary determined had the greatest need for such improvements.

Pub. L. 95–557 inserted ''and by $1,195,043,000 on October 1, 1978'' after ''October 1, 1977'', ''and on and after October 1, 1978'' after ''October 1, 1976'' and ''Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects'' after ''pursuant to section 5304(a)(4) of this title'', and struck out provisions after ''only such amounts as may be approved in appropriations Acts'' mandating that of the additional authority to enter into contracts provided on October 1, 1976, at least $60,000,000 be made available for modernization of low-income housing projects and at least $140,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 1437f, of which not less than $100,000,000 shall be available only for the purpose of financing the construction or rehabilitation of low-income housing projects, and provision after ''plans prepared pursuant to section 5304(a)(4) of this title'' mandating that of the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1977, not less than $42,500,000 shall be made available for low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 1701q of title 12.

1977—Subsec. (c). Pub. L. 95–128 authorized increase in aggregate contractual contributions by $1,159,995,000 on Oct. 1, 1977, and required the Secretary to make available therefrom minimum amounts of $42,500,000 for modernization of low-income housing projects, $197,139,200 for such projects financed by loans from State housing finance or State development agencies, and $120,000,000 for such projects financed by loans pursuant to section 1701q of title 12.

Pub. L. 95–24 substituted ''and by $1,228,050,000 on October 1, 1976'' for ''and by $850,000,000 on October 1, 1976''.

1976—Subsec. (c). Pub. L. 94–375 substituted ''$1,524,000,000 per annum, which limit shall be in-

creased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts'' for ''$1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $965,000,000 on July 1, 1974'', provision requiring the Secretary make available a total of at least $200,000,000 for modernization and financing of low-income housing projects under the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1976, for provision which required the Secretary to enter into contracts for annual contributions of at least $150,000,000 to assist in financing the development or acquisition cost of low-income housing projects, inserted ''and by not less than $17,000,000 per annum on October 1, 1976,'' after ''not less than $15,000,000 per annum, on July 1, 1975'', and struck out ''to the amounts of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection'' after ''In addition''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 1002(d) of Pub. L. 104–19, as amended by Pub. L. 104–134, title I, § 101(e) [title II, § 201(b)(1)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–204, title II, § 201(b), Sept. 26, 1996, 110 Stat. 2892; Pub. L. 105–65, title II, § 201(a), Oct. 27, 1997, 111 Stat. 1364, provided that: Subsections (a), (b), and (c) [amending this section and sections 1437p and 1437aaa–3 of this title] shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and on or before September 30, 1998.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 417(b) of Pub. L. 101–625 provided that: ''The amendment made by subsection (a) [amending this section] shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 [subsec. (h) of this section] prior to October 1, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

For date on which Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with amendment by Pub. L. 100–358, see section 6 of Pub. L. 100–358, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 206(h) of Pub. L. 95–557 provided that: ''The amendments made by this section [amending this section and sections 1437a, 1437f, and 1437g of this title], except the amendment made by subsection (d) [amending section 1437f of this title], shall become effective on October 1, 1978.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2(b)(1), (2) of Pub. L. 94–375 provided that the amendment of subsec. (c), which required the Secretary to make available a total of $200,000,000 for modernization and financing of low-income housing and which struck out reference to the amount of contracts the Secretary was required to enter into under the second sentence of this subsection, is effective Oct. 1, 1976.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of this section shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS

Section 111(c) of Pub. L. 102–550 provided that: ''The Secretary shall issue regulations necessary to carry out the amendments made by this section [amending this section and sections 1437*l* and 1437p of this title] as provided under section 191 of this Act [42 U.S.C. 1437a note].''

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 624 of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

INCREASE IN BUDGET AUTHORITY FOR CERTIFICATE AND VOUCHER PROGRAMS FOR DISASTER RELIEF

Section 931 of Pub. L. 101–625, as amended by Pub. L. 105–276, title V, § 550(c), Oct. 21, 1998, 112 Stat. 2609, provided that: ''The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.''

INCREASE IN BUDGET AUTHORITY FOR MODERATE REHABILITATION PROGRAM FOR DISASTER RELIEF

Section 932 of Pub. L. 101–625 provided that: ''The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act [42 U.S.C. 1437f(e)(2)] is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of

such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.''

§ 1437c–1. Public housing agency plans

(a) 5-year plan

(1) In general

Subject to paragraph (3), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) Statement of goals

The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

(3) Initial plan

The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this chapter.

(b) Annual plan

(1) In general

Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 1437f(*o*) or 1437g of this title.

(2) Updates

For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(c) Procedures

(1) In general

The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) Contents

The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e) of this section; and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.], and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) Contents

An annual public housing agency plan under subsection (b) of this section for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this chapter is to be made available:

(1) Needs

A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

(2) Financial resources

A statement of financial resources available to the agency and the planned uses of those resources.

(3) Eligibility, selection, and admissions policies

A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 1437f(*o*) of this title, including—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 1437d(r) of this title; and

(B) the admissions policy under section 1437n(a)(3)(B) of this title for deconcentration of lower-income families.

(4) Rent determination

A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 1437f(*o*) of this title.

(5) Operation and management

A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing

owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) Grievance procedure

A statement of the grievance procedures of the public housing agency.

(7) Capital improvements

With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) Demolition and disposition

With respect to public housing projects owned by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 1437p of this title; and

(B) a timetable for the demolition or disposition.

(9) Designation of housing for elderly and disabled families

With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 1437e of this title.

(10) Conversion of public housing

With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 1437z–5 of this title or that the public housing agency plans to voluntarily convert under section 1437t of this title;

(B) an analysis of the projects or buildings required to be converted under section 1437z–5 of this title; and

(C) a statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion.

(11) Homeownership

A description of any homeownership programs of the agency under section 1437f(y) of this title or for which the public housing agency has applied or will apply for approval under section 1437z–4 of this title.

(12) Community service and self-sufficiency

A description of—

(A) any programs relating to services and amenities provided or offered to assisted families;

(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;

(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 1437j of this title (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) Domestic violence, dating violence, sexual assault, or stalking programs

A description of—

(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

(14) Safety and crime prevention

A plan established by the public housing agency, which shall be subject to the following requirements:

(A) Safety measures

The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

(B) Establishment

The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

(C) Content

The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

(D) Secretarial action

If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(15) Pets

The requirements of the agency, pursuant to section 1437z–3 of this title, relating to pet ownership in public housing.

(16) Civil rights certification

A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42

U.S.C. 3601 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131 et seq.], and will affirmatively further fair housing.

(17) Annual audit

The results of the most recent fiscal year audit of the public housing agency under section 1437c(h)(2) of this title.

(18) Asset management

A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(19) Other

Any other information required by law to be included in a public housing agency plan.

(e) Resident advisory board

(1) In general

Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) Functions

Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) Waiver

The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(f)[1] Notice and hearing

(1) In general

In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) Availability of information and notice

Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that the information is available as required under subparagraph (A); and

(ii) that a public hearing under paragraph (1) will be conducted.

(3) Adoption of plan

A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) Advisory board consultation enforcement

Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4) of this section, the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(g) Amendments and modifications to plans

(1) In general

Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i) of this section.

(2) Consistency and notice

Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

(A) meet the requirements under subsection (c)(2) of this section (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

[1] Subsection designation editorially supplied.

(B) be subject to the notice and public hearing requirements of subsection (f) of this section.

(h) Submission of plans

(1) Initial submission

Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) Annual submission

Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) Review and determination of compliance

(1) Review

Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this chapter to be contained in a public housing agency plan;

(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.] for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this subchapter or other applicable law.

(2) Elements exempted from review

The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d) of this section.

(3) Disapproval

The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

(4) Determination of compliance

(A) In general

Except as provided in subsection (j)(2) of this section, not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) Failure to provide notice of disapproval

In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this chapter, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5 or an action regarding such compliance under section 1983 of this title.

(5) Public availability

A public housing agency shall make the approved plan of the agency available to the general public.

(j) Troubled and at-risk PHAs

(1) In general

The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 1437d(j)(2) of this title or is designated as troubled under section 1437d(j)(2) of this title, that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

(2) Troubled agencies

The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 1437d(j)(2) of this title.

(k) Streamlined plan

In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 1437d(j)(2) of this title; and

(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(*l*) Compliance with plan

(1) In general

In providing assistance under this subchapter, a public housing agency shall comply

with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) Investigation and enforcement

In carrying out this subchapter, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

(Sept. 1, 1937, ch. 896, title I, § 5A, as added Pub. L. 105–276, title V, § 511(a), Oct. 21, 1998, 112 Stat. 2531; amended Pub. L. 109–162, title VI, § 603, Jan. 5, 2006, 119 Stat. 3040.)

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (c)(2)(B) and (i)(1)(B), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title I of the Act is classified generally to subchapter I (§ 12701 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(16), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (d)(16), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(16), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Title II of the Act is classified generally to subchapter II (§ 12131 et seq.) of chapter 126 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–162, § 603(1)(A), substituted ''paragraph (3)'' for ''paragraph (2)''.

Subsec. (a)(2), (3). Pub. L. 109–162, § 603(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(13) to (19). Pub. L. 109–162, § 603(2), (3), added par. (13) and redesignated former pars. (13) to (18) as (14) to (19), respectively.

EFFECTIVE DATE

Pub. L. 105–276, title V, § 511(e), Oct. 21, 1998, 112 Stat. 2539, provided that: ''This section [enacting this section, amending section 1437d of this title, and enacting provisions set out as notes under this section] shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

REGULATIONS

Pub. L. 105–276, title V, § 511(b), Oct. 21, 1998, 112 Stat. 2538, provided that:

''(1) INTERIM RULE.—Not later than 120 days after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section). The interim rule shall provide for a public comment period of not less than 60 days.

''(2) FINAL REGULATIONS.—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall issue final regulations implementing section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section).

''(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

''(A) seek recommendations on the implementation of section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by this [sic] subsection (a) of this section) from organizations representing—

''(i) State or local public housing agencies;

''(ii) residents, including resident management corporations; and

''(iii) other appropriate parties; and

''(B) convene not less than 2 public forums at which the persons or organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

The Secretary shall publish in the final rule a summary of the recommendations made and public comments received and the Department of Housing and Urban Development's response to such recommendations and comments.''

AUDIT AND REVIEW; REPORT

Pub. L. 105–276, title V, § 511(c), Oct. 21, 1998, 112 Stat. 2538, provided that:

''(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations issued under subsection (b)(2) [set out as a note above], in order to determine the degree of compliance, by public housing agencies, with public housing agency plans approved under section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section), the Comptroller General of the United States shall conduct—

''(A) a review of a representative sample of the public housing agency plans approved under such section 5A before such date; and

''(B) an audit and review of the public housing agencies submitting such plans.

''(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to the Congress a report, which shall include—

''(A) a description of the results of each audit and review under paragraph (1); and

''(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).''

§ 1437d. Contract provisions and requirements; loans and annual contributions

(a) Conditions; elevators

The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the

project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) Limitation on development costs

(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this chapter may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are[1] authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.]; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management

Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking[2]

(4) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

(5) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

[1] So in original. Probably should be ''is''.

[2] So in original. Probably should be followed by a semicolon.

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this subchapter, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission

Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1437c(e)(2) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

(e) Repealed. Pub. L. 105–276, title V, § 529(2), Oct. 21, 1998, 112 Stat. 2569

(f) Housing quality requirements

(1) In general

Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) Federal standards

The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 1437f(*o*)(8)(B)(i) of this title. The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) Annual inspections

Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 1437c(h) of this title, shall make such results available.

(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations

Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing

agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this chapter) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) New construction contracts

On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i) of this section, would be.

(i) Reserve fund; major repairs

The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j) Performance indicators for public housing agencies

(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators for public housing agencies, to the extent practicable:

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 1437g(d) of this title which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I)[3] The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate which shall not exceed the seven factors in the statute, plus an additional five.

(I)[4] The Secretary shall:

(1) administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

(2) reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that result from their physical condition and their neighborhood environment; and

(3) determine a public housing agency's status as ''troubled with respect to the program under section 1437*l*[5] of this title'' based

[3] Another subpar. (I) is set out after subpar. (K).

[4] Another subpar. (I) is set out before subpar. (J).

[5] See References in Text note below.

upon factors solely related to its ability to carry out that program.

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. The Secretary shall also designate, by rule under section 553 of title 5, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title.

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 1437g(d) of this title), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any comparable and recent review, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 1437*l*[5] of this title adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 1437v of this title.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the ''assessment team'') with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report submitted pursuant to subparagraph (B) (if applicable) and consulting with the agency's assessment team. Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency. The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of

assistance made available from the Capital Fund under section 1437g(d) of this title for the housing; and[6]

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this subchapter; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 1437f of this title for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substan-

[6] So in original. The word ''and'' probably should not appear.

tial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 1437f of this title. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this chapter, if the Secretary finds that a public housing agency receiving assistance amounts under section 1437g of this title for public housing has failed to comply substantially with any provision of this chapter relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this[7] section 1437g of this title to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 1437g of this title;

(iii) reduce the amount of future assistance payments under section 1437g of this title to the agency by an amount equal to the amount of such payments that were not expended in accordance with this chapter;

(iv) limit the availability of assistance amounts provided to the agency under section 1437g of this title to programs, projects, or activities not affected by such failure to comply;

(v) withhold from the agency amounts allocated for the agency under section 1437f of this title; or

(vi) order other corrective action with respect to the agency.

(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 1437g of this title to the agency in the full amount of the total

[7] So in original. The word ''this'' probably should not appear.

allocations under section 1437g of this title for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to the public housing program;

(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this chapter relating to such program;

(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to such program; or

(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to such program.

(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, a report that—

(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

(C) describes the agreements that have been entered into with such agencies under such paragraph;

(D) describes the status of progress under such agreements;

(E) describes any action that has been taken in accordance with paragraph (3), including an accounting of the authorized funds that have been expended to support such actions; and

(F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program.

(6)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 1437g of this title, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) Administrative grievance procedure regulations: grounds of adverse action, hearing, examination of documents, representation, evidence, decision; judicial hearing; eviction and termination procedures

The Secretary shall by regulation require each public housing agency receiving assistance under this chapter to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (*l*) of this section;

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(*l*) Leases; terms and conditions; maintenance; termination

Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 1437j(c) of this title (relating to community service requirements); except that nothing in this subchapter shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;[8]

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(7)[9] provide that any occupancy in violation of section 13661(b) of this title (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 13662 of this title (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;[10]

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(2)[11] is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5),[12] the term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21).

(m) Reporting requirements; limitation

The Secretary shall not impose any unnecessarily duplicative or burdensome reporting re-

[8] So in original. The period probably should not appear.

[9] So in original. Probably should be ''(8)''.

[10] So in original. Probably should be followed by ''and''.

[11] So in original. Probably should be ''(B)''.

[12] See References in Text note below.

quirements on tenants or public housing agencies assisted under this chapter.

(n) Notice to post office regarding eviction for criminal activity

When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(*o*) Public housing assistance for foster care children

In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care; or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

(p) Repealed. Pub. L. 105–276, title V, § 519(b), Oct. 21, 1998, 112 Stat. 2561

(q) Availability of records

(1) In general

(A) Provision of information

Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, covered housing assistance for purposes of applicant screening, lease enforcement, and eviction.

(B) Requests by owners of project-based section 8 [42 U.S.C. 1437f] housing

A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 1437f of this title only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) Exception

A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) Opportunity to dispute

Before an adverse action is taken with regard to assistance under this subchapter on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) Fees

A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) Records management

Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

(5) Confidentiality

A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) Penalty

Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term ''person''

as used in this paragraph include[13] an officer, employee, or authorized representative of any public housing agency.

(7) Civil action

Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(8) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Adult

The term ''adult'' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) Covered housing assistance

The term ''covered housing assistance'' means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 1437f of this title, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 1437f of this title.

(C) Owner

The term ''owner'' means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) Site-based waiting lists

(1) Authority

A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], and other applicable civil rights laws.

(2) Notice

Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s) Authority to require access to criminal records

A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) of this section regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(t) Obtaining information from drug abuse treatment facilities

(1) Authority

Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) Confidentiality of applicant's records

(A) Limitation on information requested

In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) Records management

Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act [42 U.S.C. 290dd–2];

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant

[13] So in original. Probably should be ''includes''.

based upon that denial of admission has expired.

(C) Expiration of written consent

In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) Prohibition of discriminatory treatment of applicants

(A) Forms signed

A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) Circumstances of inquiry

A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) Fee permitted

A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) Disclosure permitted by treatment facilities

A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(6) Option to not request information

A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Drug abuse treatment facility

The term ''drug abuse treatment facility'' means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) Controlled substance

The term ''controlled substance'' has the meaning given the term in section 802 of title 21.

(C) Currently engaging in the illegal use of a controlled substance

The term ''currently engaging in the illegal use of a controlled substance'' means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) Effective date

This subsection shall take effect on October 21, 1998, and without the necessity of guidance from, or any regulation issued by, the Secretary.

(u) Certification and confidentiality

(1) Certification

(A) In general

A public housing agency responding to subsection (*l*)(5) and (6) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the public housing agency requests such certification.

(B) Failure to provide certification

If the individual does not provide the certification within 14 business days after the public housing agency has requested such certification in writing, nothing in this subsection, or in paragraph (5) or (6) of subsection (*l*) of this section, may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

(C) Contents

An individual may satisfy the certification requirement of subparagraph (A) by—

(i) providing the requesting public housing agency with documentation signed by

an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

(ii) producing a Federal, State, tribal, territorial, or local police or court record.

(D) Limitation

Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

(E) Preemption

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

(F) Compliance not sufficient to constitute evidence of unreasonable act

Compliance with this statute by a public housing agency, or assisted housing provider based on the certification specified in subparagraphs (A) and (B) of this subsection[14] or based solely on the victim's statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection,[14] shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a public housing agency or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (*l*)(5) and (6) of this section.

(2) Confidentiality

(A) In general

All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

(i) requested or consented to by the individual in writing;

(ii) required for use in an eviction proceeding under subsection (*l*)(5) or (6) of this section; or

(iii) otherwise required by applicable law.

(B) Notification

Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsection (*l*)(5) and (6) of this section, including their right to confidentiality and the limits thereof.

(3) Definitions

For purposes of this subsection, subsection (c)(3) of this section, and subsection (*l*)(5) and (6) of this section—

(A) the term ''domestic violence'' has the same meaning given the term in section 13925 of this title;

(B) the term ''dating violence'' has the same meaning given the term in section 13925 of this title;

(C) the term ''stalking'' means—

(i)(I) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

(II) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

(ii) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

(I) that person;

(II) a member of the immediate family of that person; or

(III) the spouse or intimate partner of that person; and

(D) the term ''immediate family member'' means, with respect to a person—

(i) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(ii) any other person living in the household of that person and related to that person by blood and marriage.

(Sept. 1, 1937, ch. 896, title I, § 6, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 659; amended Pub. L. 96–153, title II, § 206(a), Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96–399, title II, §§ 201(c), (e), 202(c), Oct. 8, 1980, 94 Stat. 1625, 1629; Pub. L. 97–35, title III, § 322(c), (d), Aug. 13, 1981, 95 Stat. 402; Pub. L. 98–181, title II, §§ 201(c), 203(a), 204, 205, 214(b), Nov. 30, 1983, 97 Stat. 1177–1179, 1185; Pub. L. 98–479, title I, § 102(b)(4), (5), title II, § 204(b)(1), Oct. 17, 1984, 98 Stat. 2221, 2233; Pub. L. 99–160, title I, § 101, Nov. 25, 1985, 99 Stat. 910; Pub. L. 100–242, title I, §§ 112(b)(2), 116, 170(d), Feb. 5, 1988, 101 Stat. 1824, 1826, 1867; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, §§ 1001(b), 1014(a)(1), Nov. 7, 1988, 102 Stat. 3263, 3269; Pub. L. 100–690, title V, § 5101, Nov. 18, 1988, 102 Stat. 4300; Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 846; Pub. L. 101–625, title V, §§ 501, 502(a), (c)(1), 503(a), (b), 504–506, 572, Nov. 28, 1990, 104 Stat. 4180, 4181, 4183–4185, 4236; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 756, 757; Pub. L. 102–550, title I, §§ 112, 113, title VI,

[14] So in original. Probably should be ''of this paragraph''.

§§ 622(b), 625(a)(2), 682(a), Oct. 28, 1992, 106 Stat. 3689, 3817, 3820, 3830; Pub. L. 103–233, title I, § 101(c)(1), title III, § 303, Apr. 11, 1994, 108 Stat. 357, 370; Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104–99, title IV, § 402(d)(1), (6)(A)(i), Jan. 26, 1996, 110 Stat. 41, 42; Pub. L. 104–120, § 9(a)–(c), Mar. 28, 1996, 110 Stat. 836, 837; Pub. L. 104–193, title IX, § 903(a)(1), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104–330, title V, § 501(b)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §§ 511(d), 512(b), 514(a)(1), (2)(A), 519(b), 520(b), 521, 525, 529, 530, 564, 565(a), 575, 576(d)(1), Oct. 21, 1998, 112 Stat. 2539, 2543, 2547, 2561, 2563, 2568, 2569, 2627, 2628, 2634, 2640; Pub. L. 109–162, title VI, § 607, Jan. 5, 2006, 119 Stat. 3048.)

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (b)(3)(A), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the ''HOME Investments Partnership Act'', is classified principally to subchapter II (§ 12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(B), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (c)(5)(F), is Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§ 13601 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Section 1437*l* of this title, referred to in subsec. (j)(1)(I)(3), (2)(B)(ii), was repealed by Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

Paragraph (5), referred to in the concluding provisions of subsec. (*l*), was redesignated as par. (6) by Pub. L. 105–276, title V, § 512(b)(1), Oct. 21, 1998, 112 Stat. 2543.

The Civil Rights Act of 1964, referred to in subsec. (r)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (r)(1), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The civil rights laws, referred to in subsec. (r)(1), are classified generally to chapter 21 (§ 1981 et seq.) of this title.

The Public Health Service Act, referred to in subsec. (t)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated financial provisions applicable to the Authority and was classified to section 1406 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2006—Subsec. (c)(3) to (5). Pub. L. 109–162, § 607(1), (2), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (*l*)(5). Pub. L. 109–162, § 607(3), inserted '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence'' before semicolon at end.

Subsec. (*l*)(6). Pub. L. 109–162, § 607(4), inserted before semicolon at end ''; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.''

Subsec. (u). Pub. L. 109–162, § 607(5), added subsec. (u).

1998—Subsec. (a). Pub. L. 105–276, § 511(d), in first sentence, inserted '', in a manner consistent with the public housing agency plan'' before the period at end and struck out after first sentence ''Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children.''

Subsec. (b)(3), (4). Pub. L. 105–276, § 520(b), added pars. (3) and (4).

Subsec. (c)(4)(A). Pub. L. 105–276, § 514(a)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (c)(4)(E). Pub. L. 105–276, § 529(1), substituted ''for each agency that receives assistance under this subchapter'' for ''except in the case of agencies not receiving operating assistance under section 1437g of this title''.

Subsec. (e). Pub. L. 105–276, § 529(2), struck out subsec. (e) which read as follows: ''Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set

aside for application, to purposes, which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions.''

Subsec. (f). Pub. L. 105–276, § 530, added subsec. (f).

Subsec. (j)(1)(B). Pub. L. 105–276, § 564(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: ''The amount and percentage of funds obligated to the public housing agency under section 1437*l* of this title which remain unexpended after 3 years.''

Subsec. (j)(1)(D). Pub. L. 105–276, § 564(1)(B), substituted ''utility'' for ''energy''.

Subsec. (j)(1)(E). Pub. L. 105–276, § 564(1)(C), which directed the transfer and insertion of subpar. (E) after subpar. (D), required no change in text.

Subsec. (j)(1)(H) to (K). Pub. L. 105–276, § 564(1)(D), (E), added subpars. (H), (I), relating to extent to which agency implements and coordinates strategies, and (J), and redesignated former subpar. (H) as (K).

Subsec. (j)(2)(A)(i). Pub. L. 105–276, § 564(2)(A), inserted after first sentence ''Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units.'' and, in last sentence, substituted ''for assistance from the Capital Fund under section 1437g(d) of this title'' for ''under section 1437*l* of this title''.

Subsec. (j)(2)(A)(iii). Pub. L. 105–276, § 564(2)(B), substituted ''for assistance from the Capital Fund under section 1437g(d) of this title'' for ''under section 1437*l* of this title''.

Subsec. (j)(2)(B)(i). Pub. L. 105–276, § 564(2)(C), inserted ''with more than 250 units'' after ''public housing agency'' and substituted ''comparable and recent review'' for ''review conducted under section 1437*l*(p) of this title''.

Subsec. (j)(2)(C). Pub. L. 105–276, § 564(2)(D), inserted ''(if applicable)'' after ''subparagraph (B)'' in first sentence.

Subsec. (j)(3)(A)(i). Pub. L. 105–276, § 565(a)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: ''solicit competitive proposals from other public housing agencies and private housing management agents (which may be selected by existing tenants through administrative procedures established by the Secretary) in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;''.

Subsec. (j)(3)(A)(iii). Pub. L. 105–276, § 565(a)(1)(B), substituted ''from the Capital Fund under section 1437g(d) of this title'' for ''under section 1437*l* of this title''.

Subsec. (j)(3)(A)(iv), (v). Pub. L. 105–276, § 565(a)(1)(C), added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: ''require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing.''

Subsec. (j)(3)(B) to (H). Pub. L. 105–276, § 565(a)(2), added subpars. (B) to (H) and struck out former subpars. (B) to (D) which read as follows:

''(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.

''(C) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

''(D) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.''

Subsec. (j)(4), (5). Pub. L. 105–276, § 521, added par. (4) and redesignated former par. (4) as (5).

Subsec. (j)(5)(F). Pub. L. 105–276, § 564(3), substituted ''program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program.'' for ''program under section 1437*l* of this title and specifies the amount of assistance the agency received under section 1437*l* of this title and any credits accumulated by the agency under section 1437*l*(k)(5)(D) of this title.''

Subsec. (j)(6), (7). Pub. L. 105–276, § 564(4), added pars. (6) and (7).

Subsec. (k). Pub. L. 105–276, § 575(a), in first sentence of concluding provisions, inserted ''violent or'' before ''drug-related'' and ''or any activity resulting in a felony conviction,'' after ''on or off such premises,''.

Subsec. (*l*)(1) to (3). Pub. L. 105–276, § 512(b)(1), (3), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (*l*)(4). Pub. L. 105–276, § 512(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (*l*)(4)(A). Pub. L. 105–276, § 575(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: ''a reasonable time, but not to exceed 30 days, when the health or safety of other tenants or public housing agency employees is threatened;''.

Subsec. (*l*)(4)(C). Pub. L. 105–276, § 575(b)(1)(B), inserted '', except that if a State or local law provides for a shorter period of time, such shorter period shall apply'' before semicolon at end.

Subsec. (*l*)(5), (6). Pub. L. 105–276, § 512(b)(1), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (*l*)(7). Pub. L. 105–276, § 575(b)(4), added par. (7) relating to termination for illegal drug use and alcohol abuse.

Pub. L. 105–276, § 575(b)(2), struck out ''and'' at end.

Pub. L. 105–276, § 512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Pub. L. 105–276, § 512(b)(1), redesignated par. (6) as (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (*l*)(9). Pub. L. 105–276, § 512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Subsec. (*o*). Pub. L. 105–276, § 514(a)(2)(A), substituted ''In'' for ''Subject'' and all that follows through '', in'' in introductory provisions.

Subsec. (p). Pub. L. 105–276, § 519(b), struck out subsec. (p) which read as follows: ''With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 1439(d)(5)(B) of this title for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low-income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—

''(1)(A) information regarding housing market conditions showing that the supply of rental housing affordable by very low-income families is inadequate, taking into account vacancy rates in such housing and other market indicators; and

''(B) evidence that significant numbers of families in the local market area holding certificates and vouchers under section 1437f of this title are experiencing significant difficulty in leasing housing meeting program and family-size requirements; or

''(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs.''

Subsec. (q)(1)(A). Pub. L. 105–276, § 575(c)(1)(A)(ii), which directed the substitution of ''covered housing assistance'' for ''public housing'', was executed by making the substitution in the second place that ''public housing'' appeared, to reflect the probable intent of Congress.

Pub. L. 105–276, § 575(c)(1)(A)(i), substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (q)(1)(B), (C). Pub. L. 105–276, § 575(c)(1)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (q)(3). Pub. L. 105–276, § 575(c)(2), substituted ''Fees'' for ''Fee'' in heading and inserted at end ''In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.''

Subsec. (q)(5) to (8). Pub. L. 105–276, § 575(c)(3), (4), added pars. (5) to (8) and struck out heading and text of former par. (5). Text read as follows: ''For purposes of this subsection, the term 'adult' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.''

Subsec. (r). Pub. L. 105–276, § 576(d)(1), redesignated subsec. (s) as (r) and struck out heading and text of former subsec. (r). Text read as follows: ''Any tenant evicted from housing assisted under this subchapter by reason of drug-related criminal activity (as that term is defined in section 1437f(f) of this title) shall not be eligible for housing assistance under this subchapter during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).''

Subsec. (s). Pub. L. 105–276, § 576(d)(1)(B), redesignated subsec. (t) as (s). Former subsec. (s) redesignated (r).

Pub. L. 105–276, § 525, added subsec. (s).

Subsec. (t). Pub. L. 105–276, § 576(d)(1)(B), redesignated subsec. (u) as (t). Former subsec. (t) redesignated (s).

Pub. L. 105–276, § 575(d), added subsec. (t).

Subsec. (u). Pub. L. 105–276, § 576(d)(1)(B), redesignated subsec. (u) as (t).

Pub. L. 105–276, § 575(e), added subsec. (u).

1996—Subsec. (b)(1). Pub. L. 104–330 struck out ''and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988'' after ''operation of public housing''.

Subsec. (c)(4)(A). Pub. L. 104–99, § 402(d)(1), (f), temporarily amended subpar. (A) generally, substituting

''(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;'' for

''(A) except for projects or portions of projects designated for occupancy pursuant to section 1437e(a) of this title with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

''(i) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12) at the time they are seeking assistance under this chapter;

''(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting families that include one or more adult members who are employed; and (VI) achieving other objectives of national housing policy as affirmed by Congress; subclause (V) shall be effective only during fiscal year 1995;

''(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

''(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.''

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (k). Pub. L. 104–120, § 9(a)(1), in concluding provisions, substituted ''involves any activity'' for ''involves any criminal activity'' and ''on or off such premises'' for ''on or near such premises''.

Subsec. (*l*)(5). Pub. L. 104–120, § 9(a)(2), substituted ''on or off such premises'' for ''on or near such premises''.

Subsec. (*l*)(7). Pub. L. 104–193 added par. (7).

Subsec. (*o*). Pub. L. 104–99, § 402(d)(6)(A)(i), (f), in introductory provisions, temporarily substituted ''written system of preferences for selection established pursuant to'' for ''preference rules specified in''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (q). Pub. L. 104–120, § 9(b), added subsec. (q).

Subsec. (r). Pub. L. 104–120, § 9(c), added subsec. (r).

1994—Subsec. (c)(4)(A)(i). Pub. L. 103–233, § 101(c)(1), inserted ''(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)'' after ''displaced''.

Subsec. (c)(4)(A)(ii). Pub. L. 103–327 added subcl. (V), redesignated former subcl. (V) as (VI), and inserted ''subclause (V) shall be effective only during fiscal year 1995;'' after semicolon at end.

Subsec. (c)(4)(E). Pub. L. 103–233, § 303, substituted ''500 units'' for ''250 units''.

1992—Subsec. (a). Pub. L. 102–550, § 625(a)(2), substituted ''elderly or disabled families'' for ''the elderly'' in last sentence.

Subsec. (c)(4)(A). Pub. L. 102–550, § 622(b), substituted ''designated for occupancy pursuant to section 1437e(a) of this title'' for ''specifically designated for elderly families'' in introductory provisions.

Subsec. (c)(4)(A)(i). Pub. L. 102–550, § 112, substituted ''50 percent'' for ''70 percent'' after ''not less than''.

Subsec. (c)(4)(F). Pub. L. 102–550, § 682(a), added subpar. (F).

Subsec. (j)(1). Pub. L. 102–550, § 113(e)(1)(C), which directed the substitution of ''indicators for public housing agencies, to the extent practicable:'' for ''indicators.'' in fourth sentence, was executed by making the substitution for ''indicators:'' to reflect the probable intent of Congress.

Pub. L. 102–550, § 113(e)(1)(A), (B), in introductory provisions, inserted ''and resident management corporations'' before period in first sentence and after ''agencies'' in third sentence.

Subsec. (j)(2)(B). Pub. L. 102–550, § 113(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (j)(2)(C). Pub. L. 102–550, § 113(a)(1), (3), redesignated subpar. (B) as (C), substituted ''agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth'' for ''agency setting forth'' in introductory provisions, and inserted ''To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.'' before ''The Secretary and the public'' in concluding provisions.

Subsec. (j)(2)(D). Pub. L. 102–550, § 113(e)(2), added subpar. (D).

Subsec. (j)(3)(A). Pub. L. 102–550, § 113(b)(5), inserted concluding provisions.

Subsec. (j)(3)(A)(i). Pub. L. 102–550, § 113(b)(1), inserted ''(which may be selected by existing tenants through administrative procedures established by the Secretary)'' after ''management agents''.

Subsec. (j)(3)(A)(iii), (iv). Pub. L. 102–550, § 113(b)(2)–(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (j)(3)(B) to (D). Pub. L. 102–550, § 113(c), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (j)(4)(E). Pub. L. 102–550, § 113(d), which directed the insertion of '', including an accounting of the authorized funds that have been expended to support such actions'' before semicolon in par. (5)(E) of subsec. (j), was executed by making the insertion in par. (4)(E) to reflect the probable intent of Congress, because subsec. (j) does not contain a par. (5).

1991—Subsec. (j)(1)(H), (I). Pub. L. 102–139, which directed amendment of ''Section 6(j)(1) of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1) section 502(a) of the National Affordable Housing Act,'' by adding ''which shall not exceed the seven factors in the statute, plus an additional five'' at the end of subpar. (H) and by adding subpar. (I), requiring Secretary to administer evaluation system, reflect in weights assigned indicators, and determine status, was executed to subsec. (j)(1) of this section, which is section 6 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 102–139 added subsec. (p).

1990—Subsec. (c)(4)(A). Pub. L. 101–625, § 501, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but (i) this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;''.

Subsec. (c)(4)(D). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families''.

Subsec. (c)(4)(E). Pub. L. 101–625, § 502(c)(1), added subpar. (E).

Subsecs. (d), (e). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

Subsec. (j). Pub. L. 101–625, § 502(a), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''On or after October 1, 1983, in entering into commitments for the development of public housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.''

Subsec. (k). Pub. L. 101–625, § 503(a), added concluding provisions and struck out former concluding provisions which read as follows: ''An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.''

Subsec. (*l*)(5). Pub. L. 101–625, § 504, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy.''

Subsec. (*l*)(6). Pub. L. 101–625, § 503(b), added par. (6).

Subsecs. (n), (*o*). Pub. L. 101–625, §§ 505, 506, added subsecs. (n) and (*o*).

1989—Subsec. (b). Pub. L. 101–144 added subsec. (b).

1988—Subsec. (a). Pub. L. 100–242, § 170(d)(1), substituted ''The Secretary'' for ''Secretary'' at beginning.

Pub. L. 100–242, § 112(b)(2), struck out ''annual'' before ''contributions''.

Subsec. (c). Pub. L. 100–242, § 112(b)(2), struck out ''annual'' before ''contributions'' in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 100–628, § 1014(a)(1), inserted cl. (i) designation after '', but'' and added cl. (ii) before semicolon at end.

Pub. L. 100–628, § 1001(b), inserted before semicolon at end ''and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence''.

Pub. L. 100–242, § 170(d)(2), inserted '', are paying more than 50 percent of family income for rent,'' after ''substandard housing'', and struck out ''or are paying more than 50 per centum of family income for rent'' after ''under this chapter''.

Subsec. (d). Pub. L. 100–242, § 112(b)(2), struck out ''annual'' before ''contributions'' in four places and before ''shelter'' in two places.

Subsec. (g). Pub. L. 100–242, § 112(b)(2), struck out ''annual'' before ''contributions'' in introductory provisions.

Subsec. (h). Pub. L. 100–242, § 116, inserted ''in the neighborhood where the public housing agency determines the housing is needed'' after ''is'' and ''in such neighborhood'' after ''rehabilitation''.

Subsec. (k)(4), (5). Pub. L. 100–242, § 170(d)(3), substituted ''their'' for ''his''.

Subsec. (*l*). Pub. L. 100–690 added par. (5) and concluding provisions defining term ''drug-related criminal activity'' for purposes of par. (5).

1985—Subsec. (b). Pub. L. 99–160 struck out subsec. (b) which related to cost of construction and equipment of a project, and prototype costs.

1984—Subsec. (a). Pub. L. 98–479, § 204(b)(1), substituted ''covenants'' for ''convenants''.

Subsec. (j). Pub. L. 98–479, § 102(b)(4), inserted '', acquisition, or acquisition and rehabilitation'' and substituted ''families requiring three or more bedrooms'' for ''large families''.

Subsec. (m). Pub. L. 98–479, § 102(b)(5), substituted ''housing'' for ''hearing''.

1983—Subsec. (c)(4)(A). Pub. L. 98–181, § 203(a), inserted ''or are paying more than 50 per centum of family income for rent''.

Subsec. (f). Pub. L. 98–181, § 214(b), repealed subsec. (f) which provided for modification or closeout of housing project.

Subsecs. (h) to (j). Pub. L. 98–181, § 201(c), added subsecs. (h) to (j).

Subsecs. (k), (*l*). Pub. L. 98–181, § 204, added subsecs. (k) and (*l*).

Subsec. (m). Pub. L. 98–181, § 205, added subsec. (m).

1981—Subsec. (a). Pub. L. 97–35, § 322(c), substituted reference to lower income for reference to low-income.

Subsec. (c). Pub. L. 97–35, § 322(c), (d), substituted provision in par. (2) requiring review at least annually for provision requiring review at least within two year intervals, or shorter where deemed desirable, in par. (4)(A) ''lower income and'' for ''low-income and'', and in par. (4)(D) reference to lower income for reference to low-income.

Subsecs. (d), (e). Pub. L. 97–35, § 322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (b). Pub. L. 96–399, § 201(c), inserted exception relating to availability of prototype costs for projects to be located on Indian reservations or in Alaskan Native villages, and added cl. (8).

Subsec. (c)(4)(A). Pub. L. 96–399, § 201(e), inserted exception relating to application of this clause to projects specifically designated for elderly families.

Subsec. (f). Pub. L. 96–399, § 202(c), inserted ''pursuant to section 1437*l* of this title'' wherever appearing.

1979—Subsec. (c)(4)(A). Pub. L. 96–153 substituted ''tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed'' for ''tenant selection criteria designed''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Amendment by section 511 of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 511(e) of Pub. L. 105–276, set out as a note under section 1437c–1 of this title.

Amendment by section 514(a)(1), (2)(A) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105–276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105–276, title V, § 565(b), Oct. 21, 1998, 112 Stat. 2631, provided that: ''The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) [amending this section] shall apply with respect to any action taken before, on, or after the effective date of this Act [probably means the general effective date for title V of Pub. L. 105–276 included in section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title] and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act [Oct. 21, 1998].''

Pub. L. 105–276, title V, § 565(e), Oct. 21, 1998, 112 Stat. 2632, provided that: ''This section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104–120, § 13, Mar. 28, 1996, 110 Stat. 845, provided that:

''(a) APPLICABILITY.—This Act [enacting section 1490p–2 of this title, amending this section, sections 1437e, 1437n, 1479, 1485, 1490p–2, and 5308 of this title, and sections 1715z–20, 1715z–22, and 1721 of Title 12, Banks and Banking, and enacting provisions set out as notes under sections 1437f, 5305, and 12805 of this title and sections 1701 and 4101 of Title 12] and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

''(b) IMPLEMENTATION.—The amendments made by sections 9 and 10 [amending this section and sections 1437e and 1437n of this title] shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations.''

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

IMPLEMENTATION

Pub. L. 105–276, title V, § 565(d), Oct. 21, 1998, 112 Stat. 2632, provided that: ''The Secretary may administer the amendments made by subsection (a) [amending this section] as necessary to ensure the efficient and effective initial implementation of this section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section].''

Section 502(c)(2) of Pub. L. 101–625, as amended by Pub. L. 102–550, title I, § 130, Oct. 28, 1992, 106 Stat. 3712, provided that: ''The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C) [amending this section], taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993 for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.''

REGULATIONS

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by section 101(c) of Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

Section 104 of Pub. L. 102–550 provided that: ''Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and section 1437f of this title]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.''

Section 503(c) of Pub. L. 101–625 provided that: ''The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section [amending this section] not later than the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990] and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.''

STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES

Pub. L. 105–276, title V, § 563, Oct. 21, 1998, 112 Stat. 2624, provided that:

''(a) IN GENERAL.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

''(b) PURPOSES.—The purposes of the study under this section shall be—

''(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

''(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

''(c) EVALUATION OF VARIOUS PERFORMANCE EVALUATION SYSTEMS.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

''(1) CURRENT SYSTEM.—The system pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)].

''(2) ACCREDITATION MODELS.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

''(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the programs for public housing and federally assisted housing.

''(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

''(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

''(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

''(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program.

''(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

''(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and community review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

''(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

''(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

''(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

''(e) CONTRACT TO CONDUCT STUDY.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of this Act [Oct. 21, 1998], with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

''(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

''(f) REPORT.—

''(1) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to

complete the study, and any findings and recommendations available at the time.

''(2) FINAL REPORT.—The Secretary shall ensure that—

''(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

''(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

''(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

REFERENCES IN OTHER LAWS TO PREFERENCES FOR ASSISTANCE

Section 402(d)(6)(D) of Pub. L. 104–99, which provided that certain references to preferences for assistance under sections 1437d(c)(4)(A)(i) and 1437f(d)(1)(A)(i), (*o*)(3)(B) of this title, as such sections existed on the day before Jan. 26, 1996, were to be considered to refer to the written system of preferences for selection established pursuant to sections 1437d(c)(4)(A) and 1437f(d)(1)(A), (*o*)(3)(B) of this title, respectively, as amended by section 402 of Pub. L. 104–99, was repealed by Pub. L. 105–276, title V, § 514(b)(2)(D), Oct. 21, 1998, 112 Stat. 2548.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by sections 622(b) and 625(a)(2) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

REPORT ON TRAINING AND CERTIFICATION STANDARDS

Section 502(b) of Pub. L. 101–625 directed Secretary to submit to Congress, not later than 12 months after Nov. 28, 1990, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies.

APPLICABILITY

Section 503(d) of Pub. L. 101–625 provided that: ''Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)], as such section existed before the date of the enactment of this Act [Nov. 28, 1990]) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.''

REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES

Section 5103 of Pub. L. 100–690 provided that: ''The Secretary of Housing and Urban Development shall submit to the Congress a report on the impact of the implementation of the public housing tenancy and administrative grievance procedure regulations issued under section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). The report shall be submitted not later than 12 months after the date of the enactment of this Act [Nov. 18, 1988].''

INDIAN HOUSING

Section 1014(a)(2) of Pub. L. 100–628 provided that: ''In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former section 1437aa(b)(2) of this title], the amendments made by paragraph (1) [amending this section] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

STUDY OF PAYMENTS IN LIEU OF TAXES; REPORT TO CONGRESS

Pub. L. 95–128, title II, § 201(g), Oct. 12, 1977, 91 Stat. 1129, provided that the Secretary of Housing and Urban Development conduct a study of payment in lieu of taxes made under subsec. (d) of this section and report to the Congress on the status and adequacy of such payments not later than 12 months after Oct. 12, 1977.

§ 1437e. Designated housing for elderly and disabled families

(a) Authority to provide designated housing

(1) In general

Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) of this section is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) Priority for occupancy

In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) Eligibility of near-elderly families

If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) Standards regarding evictions

Except as provided in section 1437n(e)(1)(B)[1] of this title, any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this

[1] See References in Text note below.

section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) Relocation assistance

A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) of this section shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 1437f of this title, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) Required plan

A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) of this section is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 12705 of this title; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 1701q(d)(8)[1] of title 12) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term ''supportive services'' means services designed to meet the special needs of residents.

(e) Review of plans

(1) Review and notification

The Secretary shall conduct a limited review of each plan under subsection (d) of this section that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d) of this section. The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) of this section and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) Notice of reasons for determination of noncompliance

If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d) of this section, the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) Standards for determination of noncompliance

The Secretary may determine that a plan does not comply with the requirements under subsection (d) of this section only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) Treatment of existing plans

Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before March 28, 1996) that have not been approved or disapproved before March 28, 1996.

(f) Effectiveness

(1) 5-year effectiveness of original plan

A plan under subsection (d) of this section shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of this section of the public housing agency that the plan complies with the requirements under subsection (d) of this section.

(2) Renewal of plan

Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) Transition provision

Any application and allocation plan approved under this section (as in effect before March 28, 1996) before March 28, 1996, shall be considered to be a plan under subsection (d) of this section that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) Inapplicability of Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970

No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 [42 U.S.C. 4601 et seq.] because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(Sept. 1, 1937, ch. 896, title I, § 7, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 95–557, title IV, § 412, Oct. 31, 1978, 92 Stat. 2110; Pub. L. 100–242, title I, § 112(b)(3), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; amended Pub. L. 102–550, title VI, § 622(a), Oct. 28, 1992, 106 Stat. 3813; Pub. L. 104–99, title IV, § 402(d)(6)(A)(ii), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104–120, § 10(a), Mar. 28, 1996, 110 Stat. 838; Pub. L. 104–330, title V, § 501(b)(4), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, § 595(d), Oct. 21, 1998, 112 Stat. 2656.)

REFERENCES IN TEXT

Section 1437n(e)(1)(B) of this title, referred to in subsec. (b), was repealed by Pub. L. 105–276, title V, § 576(d)(2), Oct. 21, 1998, 112 Stat. 2640.

Section 1701q of title 12, referred to in subsec. (d)(2)(D), was amended generally by Pub. L. 101–625, title VIII, § 801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, does not contain a subsec. (d)(8) or a definition of the term ''related facilities''.

The Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, required publication of information and submission of annual report by the Authority and was classified to section 1407 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–276 struck out heading and text of subsec. (h). Text read as follows: ''The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.''

1996—Pub. L. 104–330, § 501(b)(4), which directed amendment of ''subsection 7'' of the United States Housing Act of 1937, probably meaning this section, by striking subsec. (*l*), could not be executed because this section does not contain a subsec. (*l*).

Pub. L. 104–120 amended section generally, restating former subsecs. (a) to (g) relating to designated housing as subsecs. (a) to (h) relating to designated housing for elderly and disabled families.

Subsec. (a)(2). Pub. L. 104–99, which directed the temporary amendment of par. (2) by substituting ''in accordance with the written system of preferences for selection established pursuant to'' for ''according to the preferences for occupancy under'', could not be executed because of the amendment by Pub. L. 104–120 which amended section generally retroactive to Oct. 1, 1995. See Effective and Termination Dates of 1996 Amendments note below.

1992—Pub. L. 102–550 amended section generally, substituting present provisions for provisions relating to and defining ''congregate housing'' and providing for design, development, and acquisition of congregate housing for displaced or elderly families, limitation on amounts for contracts for congregate housing, and costs for central dining facilities.

1988—Pub. L. 100–242 struck out ''annual'' before ''contributions'' in proviso.

1978—Pub. L. 95–557 substituted ''(1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978'' for ''low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation''.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

§ 1437f. Low-income housing assistance

(a) Authorization for assistance payments

For the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

(b) Other existing housing programs

(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts

with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with subchapter II–A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjust-

ments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 1437a(a) of this title. Reviews of family income shall be made no less frequently than annually.

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if

the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(6) Redesignated (5).

(7) Repealed. Pub. L. 105–276, title V, § 550(a)(3)(C), Oct. 21, 1998, 112 Stat. 2609.

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(D) For purposes of this paragraph, the term ''termination'' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

(B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

(C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

(ii) Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

(iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

(iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

(v) Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

(d) Required provisions and duration of contracts for assistance payments; waiver of limitation

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation

programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c–1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance,[1] to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;[2]

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for

[1] So in original. The comma probably should follow ''to''.

[2] So in original. The period probably should not appear.

project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661[3] of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 1437c(c) of this title for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(D) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13611 et seq.].

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

[3] So in original. Probably should be section ''671''.

(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e) Restrictions on contracts for assistance payments

(1) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(2) Repealed. Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

(f) Definitions

As used in this section—

(1) the term ''owner'' means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms ''rent'' or ''rental'' mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term ''debt service'' means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter;

(4) the term ''participating jurisdiction'' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(5) the term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21);

(6) the term ''project-based assistance'' means rental assistance under subsection (b) of this section that is attached to the structure pursuant to subsection (d)(2) or (*o*)(13) of this section;

(7) the term ''tenant-based assistance'' means rental assistance under subsection (*o*) of this section that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing;

(8) the term ''domestic violence'' has the same meaning given the term in section 13925 of this title;

(9) the term ''dating violence'' has the same meaning given the term in section 13925 of this title; and[4]

(10) the term ''stalking'' means—

(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and

(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person; and

(11) the term ''immediate family member'' means, with respect to a person—

(A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any other person living in the household of that person and related to that person by blood and marriage.

(g) Regulations applicable for implementation of assistance payments

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments

Sections 1437c(e) and 1437d of this title (except as provided in section 1437d(j)(3) of this title), and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) Receipt of assistance by public housing agency under other law not to be considered

The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(j) Repealed. Pub. L. 105–276, title V, § 550(a)(6), Oct. 21, 1998, 112 Stat. 2609

(k) Verification of income

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], or title 38. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

(*l*), (m) Repealed. Pub. L. 98–181, title II, § 209(a)(5), Nov. 30, 1983, 97 Stat. 1183

(n) Repealed. Pub. L. 105–276, title V, § 550(a)(7), Oct. 21, 1998, 112 Stat. 2609

(*o*) Voucher program

(1) Authority

(A) In general

The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) Establishment of payment standard

Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) of this section for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

(C) Set-aside

The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) Approval

The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental.

(E) Review

The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a

[4] So in original. The word ''and'' probably should not appear.

significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) Amount of monthly assistance payment

Subject to the requirement under section 1437a(a)(3) of this title (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) Tenant-based assistance; rent not exceeding payment standard

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) Tenant-based assistance; rent exceeding payment standard

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) Families receiving project-based assistance

For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 1437a(a)(1) of this title, and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(3) 40 percent limit

At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) Eligible families

To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this subchapter;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113, 4116].

(5) Annual review of family income

(A) In general

Reviews of family incomes for purposes of this section shall be subject to the provisions of section 3544 of this title and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(B) Procedures

Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

(6) Selection of families and disapproval of owners

(A) Preferences

(i) Authority to establish

Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

(ii) Content

Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) Selection of tenants

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit)[5] shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by[6] or for denial of admission if the applicant otherwise qualifies for assistance for[7] admission, and that[8] nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

(C) PHA disapproval of owners

In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) Leases and tenancy

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of vio-

[5] So in original. No opening parenthesis was enacted.

[6] So in original. The word "by" probably should not appear.

[7] So in original. Probably should be "or".

[8] So in original. The word "that" probably should not appear.

lence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate,[9] assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;[10]

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection.

(8) Inspection of units by PHAs

(A) In general

Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

(B) Housing quality standards

The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice[11]

(C) Inspection

The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) Annual inspections

Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 1437c(h) of this title.

(E) Inspection guidelines

The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) Vacated units

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) Rent

(A) Reasonableness

The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) Negotiations

A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that

[9] So in original. The comma probably should follow ''assistance to''.

[10] So in original. The period probably should not appear.

[11] So in original. Probably should be followed by a period.

family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) Units exempt from local rent control

If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) Timely payments

Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) Penalties

Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(11) Leasing of units owned by PHA

If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(12) Assistance for rental of manufactured housing

(A) In general

A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

(B) Rent calculation

(i) Charges included

For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) Payment standard

The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) Monthly assistance payment

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(13) PHA project-based assistance

(A) In general

A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated structure, that is attached to the structure, subject to the limitations and requirements of this paragraph.

(B) Percentage limitation

Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph.

(C) Consistency with PHA plan and other goals

A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 1437c–1 of this title; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

(D) Income mixing requirement

(i) In general

Not more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

(ii) Exceptions

The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for house-

holds comprised of elderly families, disabled families, and families receiving supportive services.

(E) Resident choice requirement

A housing assistance payment contract pursuant to this paragraph shall provide as follows:

(i) Mobility

Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

(ii) Continued assistance

Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

(F) Contract term

A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 10 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).

(G) Extension of contract term

A public housing agency may enter into a contract with the owner of a structure assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

(H) Rent calculation

A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of title 26 and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance. The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

(I) Rent adjustments

A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H); and

(ii) the provisions of subsection (c)(2)(C) of this section shall not apply.

(J) Tenant selection

A public housing agency shall select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection. Eligibility for such project-based assistance shall be subject to the provisions of section 1437n(b) of this title that apply to tenant-based assistance. The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c–1 of this title. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a structure by the owner or manager of a structure assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. The owner or manager of a structure assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list

policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list.

(K) Vacated units

Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

(i) Payment for vacant units

That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

(ii) Reduction of contract

That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

(14) Inapplicability to tenant-based assistance

Subsection (c) of this section shall not apply to tenant-based assistance under this subsection.

(15) Homeownership option

(A) In general

A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y) of this section.

(B) Alternative administration

A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y) of this section.

(16) Rental vouchers for relocation of witnesses and victims of crime

(A) Witnesses

Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) Victims of crime

(i) In general

Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

(ii) Notice

A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) Deed restrictions

Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act [42 U.S.C. 3601 et seq.].

(18) Rental assistance for assisted living facilities

(A) In general

A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

(B) Rent calculation

(i) Charges included

For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

(ii) Payment standard

In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is

located, for the applicable size dwelling unit.

(iii) Monthly assistance payment

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection).

(C) Definition

For the purposes of this paragraph, the term ''assisted living facility'' has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

(19) Rental vouchers for Veterans Affairs supported housing program

(A) Set aside

Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) Amount

The amount specified in this subparagraph is—

(i) for fiscal year 2003, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2004, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2005, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection; and

(iv) for fiscal year 2006, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection.

(C) Funding through incremental assistance

In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

(20) Prohibited basis for termination of assistance

(A) In general

A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

(B) Construal of lease provisions

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

(C) Termination on the basis of criminal activity

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

(D) Exceptions

(i) Public housing authority right to terminate for criminal acts

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

(ii) Compliance with court orders

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution possession of property among the household members in cases where a family breaks up.

(iii) Public housing authority right to terminate voucher assistance for lease violations

Nothing in subparagraph (A), (B), or (C) limit[12] any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

(iv) Public housing authority right to terminate voucher assistance for imminent threat

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an ac-

[12] So in original. Probably should be ''limits''.

tual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

(v) Preemption

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

(p) Shared housing for elderly and handicapped

In order to assist elderly families (as defined in section 1437a(b)(3) of this title who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) Administrative fees

(1) Fee for ongoing costs of administration

(A) In general

The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) Fiscal year 1999

(i) Calculation

For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) Base amount

For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under subsection (c) of this section (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i), adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) Subsequent fiscal years

For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) Increase

The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) Decrease

The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) Fee for preliminary expenses

The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of $500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under this chapter (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) Transfer of fees in cases of concurrent geographical jurisdiction

In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) Applicability

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(r) Portability

(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (*o*) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (*o*) of this section for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (*o*) of this section to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 [42 U.S.C. 1437f] program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) Prohibition of denial of certificates and vouchers to residents of public housing

In selecting families for the provision of assistance under this section (including subsection (*o*) of this section), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

(t) Enhanced vouchers

(1) In general

Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (*o*) of this section, except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (*o*) of this section for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (*o*) of this section and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (*o*) of this section if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of the eligibility event for the project.

(2) Eligibility event

For purposes of this subsection, the term ''eligibility event'' means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under this section for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior

to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 4113(f) of title 12, or section 1715z–1a(p) of title 12, results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

(3) Treatment of enhanced vouchers provided under other authority

(A) In general

Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

(B) Identification of other authority

The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the ''Preserving Existing Housing Investment'' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the ''Housing Certificate Fund'' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65; 111 Stat. 1351), or the first proviso under the ''Housing Certificate Fund'' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before October 20, 1999.

(4) Authorization of appropriations

There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(u) Assistance for residents of rental rehabilitation projects

In the case of low-income families living in rental projects rehabilitated under section 1437*o* [13] of this title or section 1490m of this title before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) Extension of expiring contracts

The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) Repealed. Pub. L. 106–74, title V, § 531(d)(2), Oct. 20, 1999, 113 Stat. 1116

(x) Family unification

(1) Increase in budget authority

The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.

(2) Use of funds

The amounts made available under this subsection shall be used only in connection with tenant-based assistance under this section on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) for a period not to exceed 18 months, otherwise eligible youths who have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older.

(3) Allocation

The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

[13] See References in Text note below.

(4) Definitions

For purposes of this subsection:

(A) Applicant

The term ''applicant'' means a public housing agency or any other agency responsible for administering assistance under this section.

(B) Public child welfare agency

The term ''public child welfare agency'' means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) Homeownership option

(1) Use of assistance for homeownership

A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(2) Determination of amount of assistance

(A) Monthly expenses not exceeding payment standard

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) Monthly expenses exceed payment standard

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(3) Inspections and contract conditions

(A) In general

Each contract for the purchase of a unit to be assisted under this section shall—

(i) provide for pre-purchase inspection of the unit by an independent professional; and

(ii) require that any cost of necessary repairs be paid by the seller.

(B) Annual inspections not required

The requirement under subsection (*o*)(8)(A)(ii)[14] of this section for annual inspections shall not apply to units assisted under this section.

(4) Other authority of the Secretary

The Secretary may—

(A) limit the term of assistance for a family assisted under this subsection; and

(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(5) Inapplicability of certain provisions

Assistance under this subsection shall not be subject to the requirements of the following provisions:

(A) Subsection (c)(3)(B)[14] of this section.

(B) Subsection (d)(1)(B)(i) of this section.

(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

(E) Any other provisions of this chapter that are inconsistent with the provisions of this subsection.

(6) Reversion to rental status

(A) FHA-insured mortgages

If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental as-

[14] See References in Text note below.

sistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 1437u(d)(3)[14] of this title may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) Other mortgages

If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) All mortgages

A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(7) Downpayment assistance

(A) Authority

A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

(B) Amount

The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

(8) "First-time homeowner" defined

For purposes of this subsection, the term ''first-time homeowner'' means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(z) Termination of section 1437f contracts and reuse of recaptured budget authority

(1) General authority

The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

(A) Tenant-based assistance

Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) Project-based assistance

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) Families occupying units formerly assisted under terminated contract

Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(aa) Omitted

(bb) Transfer, reuse, and rescission of budget authority

(1) Transfer of budget authority

If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) Reuse and rescission of certain recaptured budget authority

Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under this subchapter is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) Law enforcement and security personnel

(1) In general

Notwithstanding any other provision of this chapter, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the chapter.

(2) Rent requirements

With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) Applicability

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) Tenant-based contract renewals

Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

(ee) Certification and confidentiality

(1) Certification

(A) In general

An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), (*o*)(20), and (r)(5) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the owner, manager, or public housing agency requests such certification.

(B) Failure to provide certification

If the individual does not provide the certification within 14 business days after the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), (*o*)(20), or (r)(5) of this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager, public housing agency, or assisted housing provider may extend the 14-day deadline at their discretion.

(C) Contents

An individual may satisfy the certification requirement of subparagraph (A) by—

(i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

(ii) producing a Federal, State, tribal, territorial, or local police or court record.

(D) Limitation

Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, or public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

(E) Compliance not sufficient to constitute evidence of unreasonable act

Compliance with this statute by an owner, manager, public housing agency, or assisted housing provider based on the certification specified in paragraphs (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manger, public housing agency, or assisted housing provider, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), (*o*)(20), or (r)(5) of this section.

(F) Preemption

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

(2) Confidentiality

(A) In general

All information provided to an owner, manager, or public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager,

or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

(i) requested or consented to by the individual in writing;

(ii) required for use in an eviction proceeding under subsection (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), or (*o*)(20) of this section,;[15] or

(iii) otherwise required by applicable law.

(B) Notification

Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsections (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), (*o*)(20), and (r)(5) of this section, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this subsection and subsections (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (*o*)(7)(C), (*o*)(7)(D), (*o*)(20), and (r)(5) of this section.

(Sept. 1, 1937, ch. 896, title I, § 8, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 94–375, § 2(d), (e), (g), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–24, title I, § 101(c), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, § 201(c)–(e), Oct. 12, 1977, 91 Stat. 1128; Pub. L. 95–557, title II, § 206(d)(1), (e), (f), Oct. 31, 1978, 92 Stat. 2091, 2092; Pub. L. 96–153, title II, §§ 202(b), 206(b), 210, 211(b), Dec. 21, 1979, 93 Stat. 1106, 1108–1110; Pub. L. 96–399, title II, § 203, title III, § 308(c)(3), Oct. 8, 1980, 94 Stat. 1629, 1641; Pub. L. 97–35, title III, §§ 322(e), 324–326(a), (e)(1), 329H(a), Aug. 13, 1981, 95 Stat. 402, 405–407, 410; Pub. L. 98–181, title II, §§ 203(b)(1), (2), 207–209(a), 210, 211, Nov. 30, 1983, 97 Stat. 1178, 1181–1183; Pub. L. 98–479, title I, § 102(b)(6)–(10), Oct. 17, 1984, 98 Stat. 2221, 2222; Pub. L. 100–242, title I, §§ 141–149, title II, § 262, Feb. 5, 1988, 101 Stat. 1849–1853, 1890; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, §§ 1004(a), 1005(b)(1), (c), 1006, 1014(b), (c), 1029, Nov. 7, 1988, 102 Stat. 3264, 3265, 3269, 3272; Pub. L. 101–235, title I, § 127, title VIII, § 801(c), (g), Dec. 15, 1989, 103 Stat. 2025, 2058, 2059; Pub. L. 101–625, title II, § 289(b), title IV, § 413, title V, §§ 541–545(a), 545(2)[(b)], 546–549, 550(a), (c), 551–553, 572, title VI, §§ 603, 613(a), Nov. 28, 1990, 104 Stat. 4128, 4160, 4216–4224, 4236, 4277, 4280; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 756; Pub. L. 102–550, title I, §§ 141–148, 185(a), title VI, §§ 623(b), 660, 674, 675, 682(b), title X, § 1012(g), Oct. 28, 1992, 106 Stat. 3713–3715, 3745, 3819, 3825, 3827, 3828, 3830, 3905; Pub. L. 103–233, title I, § 101(c)(2), (3), (d), Apr. 11, 1994, 108 Stat. 357; Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104–19, title I, § 1003, July 27, 1995, 109 Stat. 236; Pub. L. 104–99, title IV, §§ 402(d)(2), (3), (6)(A)(iii), (iv), 405(c), Jan. 26, 1996, 110 Stat. 41, 42, 44; Pub. L. 104–134, title I, § 101(e) [title II, §§ 203(a)–(c), 208], Apr. 26, 1996, 110 Stat. 1321–257, 1321–281, 1321–284; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–193, title IX, § 903(a)(2), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104–204, title II, § 201(g), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–18, title II, § 10002, June 12, 1997, 111 Stat. 201; Pub. L. 105–33, title II, §§ 2003, 2004, Aug. 5, 1997, 111 Stat. 257; Pub. L. 105–65, title II, §§ 201(c), 205, title V, § 523(a), (c), Oct. 27, 1997, 111 Stat. 1364, 1365, 1406, 1407; Pub. L. 105–276, title II, § 209(a), title V, §§ 514(b)(1), 545(a), (b), 547–549(a)(2), (b), 550(a), 552–555(a), 556(a), 565(c), Oct. 21, 1998, 112 Stat. 2485, 2547, 2596–2607, 2609–2611, 2613, 2631; Pub. L. 106–74, title II, § 223, title V, §§ 523(a), 531(d), 535, 538(a), Oct. 20, 1999, 113 Stat. 1076, 1104, 1116, 1121, 1122; Pub. L. 106–246, div. B, title II, § 2801, July 13, 2000, 114 Stat. 569; Pub. L. 106–377, § 1(a)(1) [title II, §§ 205, 228, 232(a), 234], Oct. 27, 2000, 114 Stat. 1441, 1441A–24, 1441A–30, 1441A–31, 1441A–35; Pub. L. 106–569, title III, § 301(a), title IX, §§ 902(a), 903(a), Dec. 27, 2000, 114 Stat. 2952, 3026; Pub. L. 107–95, § 12, Dec. 21, 2001, 115 Stat. 921; Pub. L. 107–116, title VI, § 632, Jan. 10, 2002, 115 Stat. 2227; Pub. L. 109–162, title VI, § 606, Jan. 5, 2006, 119 Stat. 3041.)

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (f)(4) and (*o*)(4)(D), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, also known as the ''HOME Investment Partnerships Act'', is classified principally to subchapter II (§ 12721 et seq.) of chapter 130 of this title. Title IV of the Act, also known as the ''Homeownership and Opportunity Through HOPE Act'', enacted subchapter II–A (§ 1437aaa et seq.) of this chapter and subchapter IV (§ 12871 et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (d)(2)(C), (D), is Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§ 13601 et seq.) of chapter 135 of this title. Subtitle D of title VI of the Act is classified principally to subchapter II (§ 13611 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Sections 514 and 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsecs. (d)(5) and (bb)(2), are sections 514 and 517 of Pub. L. 105–65, and are set out as a note under this section.

The Social Security Act, referred to in subsec. (k), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food Stamp Act of 1977, referred to in subsec. (k), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under 2011 of Title 7 and Tables.

The Fair Housing Act, referred to in subsec. (*o*)(17), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (q)(1)(B)(ii)(I), (2)(A), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Inde-

[15] So in original. The comma probably should not appear.

pendent Agencies Appropriations Act, 2001, referred to in subsec. (t)(2), means the effective date of H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377, which was approved Oct. 27, 2000.

Section 1437*o* of this title, referred to in subsec. (u), was repealed by Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

Subsection (*o*)(8)(A) of this section, referred to in subsec. (y)(3)(B), does not contain a cl. (ii) and does not relate to annual inspections. For provisions of subsec. (*o*)(8) which relate to annual inspections, see subpar. (D).

Subsection (c)(3)(B) of this section, referred to in subsec. (y)(5), was repealed by Pub. L. 105–276, title V, § 550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

The National Housing Act, referred to in subsec. (y)(6), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 1437u(d)(3) of this title, relating to reimbursement of escrow accounts, referred to in subsec. (y)(6)(A), was repealed by Pub. L. 105–276, title V, § 509(a)(2), Oct. 21, 1998, 112 Stat. 2531.

CODIFICATION

October 20, 1999, referred to in subsec. (t)(3)(B)(ii), was in the original ''the enactment of this Act'', which was translated as meaning the enactment of Pub. L. 106–74, which enacted subsec. (t) of this section, to reflect the probable intent of Congress.

Section 203(a) of Pub. L. 100–242, as amended, which was formerly set out in a note under section 1715*l* of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 262 of Pub. L. 100–242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100–242 by Pub. L. 101–625.

PRIOR PROVISIONS

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized promulgation of rules and regulations by the Authority and was classified to section 1408 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2006—Subsec. (c)(9). Pub. L. 109–162, § 606(1), added par. (9).

Subsec. (d)(1)(A). Pub. L. 109–162, § 606(2)(A), which directed insertion of ''and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission'' after ''public housing agency'', was executed by making the insertion after ''public housing agency'' the last place appearing to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(ii). Pub. L. 109–162, § 606(2)(B), inserted '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence'' before semicolon at end.

Subsec. (d)(1)(B)(iii). Pub. L. 109–162, § 606(2)(C), inserted before semicolon at end '', except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.''

Subsec. (f)(8) to (11). Pub. L. 109–162, § 606(3), added pars. (8) to (11).

Subsec. (*o*)(6)(B). Pub. L. 109–162, § 606(4)(A), inserted ''That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission if the applicant otherwise qualifies for assistance for admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.'' at end.

Subsec. (*o*)(7)(C). Pub. L. 109–162, § 606(4)(B), inserted '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence'' before semicolon at end.

Subsec. (*o*)(7)(D). Pub. L. 109–162, § 606(4)(C), inserted at end ''; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against

family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate, assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.''

Subsec. (*o*)(20). Pub. L. 109–162, § 606(4)(D), added par. (20).

Subsec. (r)(5). Pub. L. 109–162, § 606(5), inserted '', except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit'' before period at end.

Subsec. (ee). Pub. L. 109–162, § 606(6), added subsec. (ee).

2002—Subsec. (t)(2). Pub. L. 107–116 inserted ''(including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter)'' after ''insurance contract for the mortgage for such housing project''.

2001—Subsec. (*o*)(19). Pub. L. 107–95 added par. (19).

2000—Subsec. (*o*)(13). Pub. L. 106–377, § 1(a)(1) [title II, § 232(a)], reenacted heading without change and amended text generally, substituting subpars. (A) to (K) providing for funding percentage limitation, consistency of contracts with public housing agency plan and goals, income mixing requirement, resident choice requirement, contract term and its extension, rent calculation and adjustments, tenant selection, and vacated units for former subpars. (A) to (D) providing for extension of contract term, rent calculation, and adjusted rents.

Subsec. (t)(1)(B). Pub. L. 106–569, § 903(a), inserted before semicolon at end '', except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families''.

Pub. L. 106–377, § 1(a)(1) [title II, § 205], inserted ''and any other reasonable limit prescribed by the Secretary'' before semicolon at end.

Pub. L. 106–246, which directed the substitution of ''the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside,'' for ''during any period that the assisted family continues residing in the same project in which the family was residing on the date of the eligibility event for the project, if'' in section 538 of Pub. L. 106–74, was executed by making the substitution in subsec. (t)(1)(B) of this section, which was enacted by section 538 of Pub. L. 106–74, to reflect the probable intent of Congress.

Subsec. (t)(2). Pub. L. 106–569, § 902(a), substituted ''fiscal year 1994'' for ''fiscal year 1996''.

Pub. L. 106–377, § 1(a)(1) [title II, § 228], inserted ''(including any such termination or expiration during fiscal years after fiscal year 1996 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001)'' after ''contract for rental assistance under this section for such housing project''.

Subsec. (x)(2). Pub. L. 106–377, § 1(a)(1) [title II, § 234], substituted ''(A) any family (i) who is otherwise eligible for such assistance, and (ii)'' for ''any family (A) who is otherwise eligible for such assistance, and (B)'' and inserted before period at end ''and (B) for a period not to exceed 18 months, otherwise eligible youths who have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older''.

Subsec. (y)(7), (8). Pub. L. 106–569, § 301(a), added par. (7) and redesignated former par. (7) as (8).

1999—Subsec. (c)(8)(A). Pub. L. 106–74, § 535(1), substituted ''termination of'' for ''terminating'' after ''Not less than one year before'' and ''. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.'' for '', specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.''

Subsec. (c)(8)(B). Pub. L. 106–74, § 535(2), (4), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''In the case of owner who has requested that the Secretary renew the contract, the owner's notice under subparagraph (A) to the tenants shall include statements that—

''(i) the owner currently has a contract with the Department of Housing and Urban Development that pays the Government's share of the tenant's rent and the date on which the contract will expire;

''(ii) the owner intends to renew the contract for another year;

''(iii) renewal of the contract may depend upon the Congress making funds available for such renewal;

''(iv) the owner is required by law to notify tenants of the possibility that the contract may not be renewed if Congress does not provide funding for such renewals;

''(v) in the event of nonrenewal, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent; and

''(vi) the notice itself does not indicate an intent to terminate the contract by either the owner or the Department of Housing and Urban Development, provided there is Congressional approval of funding availability.''

Subsec. (c)(8)(C). Pub. L. 106–74, § 535(4), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Pub. L. 106–74, § 535(3), struck out ''Notwithstanding the preceding provisions of this paragraph, if the owner

agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract.'' after ''(C)'' and ''in the immediately preceding sentence'' before '', the owner may not evict the tenants'', struck out ''180-day'' before ''notice'' in two places, and substituted ''1 year has elapsed'' for ''such period has elapsed'' and ''1 year of advance notice'' for ''180 days of advance notice''.

Subsec. (c)(8)(D), (E). Pub. L. 106–74, § 535(4), redesignated subpars. (D) and (E) as (C) and (D), respectively.

Subsec. (*o*)(18). Pub. L. 106–74, § 523(a), added par. (18).

Subsec. (t). Pub. L. 106–74, § 538(a), added subsec. (t).

Subsec. (v). Pub. L. 106–74, § 531(d)(1), designated sentence enacted by Pub. L. 104–99, § 405(c), as subsec. (v).

Subsec. (w). Pub. L. 106–74, § 531(d)(2), struck out heading and text of subsec. (w). Text read as follows: ''Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since August 22, 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.''

Subsec. (z)(1). Pub. L. 106–74, § 223(1), in introductory provisions, inserted ''expiration or'' after ''on account of'' and struck out ''(other than a contract for tenant-based assistance)'' after ''payments contract''.

Subsec. (z)(3). Pub. L. 106–74, § 223(2), struck out heading and text of par. (3). Text read as follows: ''This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.''

1998—Subsec. (a). Pub. L. 105–276, § 550(a)(1), struck out at end ''A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.''

Subsec. (b). Pub. L. 105–276, § 550(a)(2), substituted ''Other'' for ''Rental certificates and other'' in subsec. heading, inserted par. (1) designation and heading, and struck out after first sentence ''The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (*o*) of this section) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.''

Subsec. (c)(3). Pub. L. 105–276, § 550(a)(3)(A), struck out ''(A)'' after par. designation, and struck out subpar. (B), which authorized payment of higher percentage of income as rent than that specified under section 1437a(a) of this title if family receiving tenant-based rental assistance notified public housing agency of its interest in a unit renting for an excess rent and agency determined that the rent was reasonable, and set forth provisions which limited agency approval of such excess rentals to 10 percent of annual allocation, required report to Secretary where such rentals exceeded 5 percent of allocation, and required Secretary to report to Congress annually on agencies which had submitted such reports and include recommendations deemed appropriate to correct problems identified in reports.

Subsec. (c)(4). Pub. L. 105–276, § 550(a)(3)(B), struck out ''or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990'' after ''such dwelling unit'' in first sentence.

Subsec. (c)(5), (6). Pub. L. 105–276, § 550(a)(3)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: ''Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration.''

Subsec. (c)(7). Pub. L. 105–276, § 550(a)(3)(C), struck out par. (7) which read as follows: ''To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section.''

Subsec. (c)(8). Pub. L. 105–276, § 549(b), redesignated par. (9) as (8)(A) and substituted subpars. (B) to (E) for ''The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.''

Pub. L. 105–276, § 549(a)(1)(A), struck out par. (8) which read as follows: ''Each contract under this section shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract.''

Subsec. (c)(9). Pub. L. 105–276, § 549(b)(1), redesignated par. (9) as (8)(A).

Pub. L. 105–276, § 549(a)(1)(B), substituted ''Not less than one year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination.'' for ''Not less than 180 days prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (*o*) of this section), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination.''

Subsec. (c)(10). Pub. L. 105–276, § 549(a)(1)(A), struck out par. (10) which read as follows: ''If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1) of this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) of this section and the value of the low-income housing after rehabilitation.''

Subsec. (d)(1)(A). Pub. L. 105–276, § 514(b)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 105–276, § 549(a)(2)(A), substituted ''during the term of the lease, the owner'' for ''the owner''.

Subsec. (d)(1)(B)(iii). Pub. L. 105–276, § 549(a)(2)(B), substituted ''during the term of the lease, any criminal activity'' for ''provide that any criminal activity''.

Subsec. (d)(2)(A). Pub. L. 105–276, § 550(a)(4)(A), struck out at end ''Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section, except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.''

Subsec. (d)(2)(B) to (G). Pub. L. 105–276, § 550(a)(4)(C), redesignated subpars. (F) to (H) as (B) to (D), respectively, and struck out former subpars. (B) to (E). Prior to repeal, former subpar. (B) required the Secretary to permit a public housing agency to approve attachment of assistance with respect to any newly constructed structure if certain conditions were met, former subpar. (C) required a public housing agency to enter into a contract with an owner of a structure to which a contract for assistance was attached under this par. to provide for renewal of expiring assistance payment contracts, former subpar. (D) required owners of structures to which a contract for assistance was attached to adopt certain tenant selection procedures, and former subpar. (E) required the Secretary to annually survey public housing agencies to determine which have reached certain limitations in providing assistance and to report the survey results to Congress.

Subsec. (d)(2)(H). Pub. L. 105–276, § 550(a)(4)(C), redesignated subpar. (H) as (D).

Pub. L. 105–276, § 550(a)(4)(B), substituted ''An owner'' for ''Notwithstanding subsection (d)(1)(A)(i) of this section, an owner''.

Subsec. (d)(6). Pub. L. 105–276, § 552, added par. (6).

Subsec. (f)(6). Pub. L. 105–276, § 545(b), inserted ''or (*o*)(13)'' after ''(d)(2)''.

Subsec. (f)(7). Pub. L. 105–276, § 550(a)(5), struck out ''(b) or'' after ''under subsection'' and inserted before period at end ''and that provides for the eligible family to select suitable housing and to move to other suitable housing''.

Subsec. (h). Pub. L. 105–276, § 565(c), which directed insertion of ''(except as provided in section 1437d(j)(3) of this title)'' after ''section 1437d of this title'', was executed by making the insertion after ''Sections 1437c(e) and 1437d of this title'', to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 105–276, § 550(a)(6), struck out subsec. (j), which authorized contracts for making rental assistance payments on behalf of low-income families utilizing manufactured homes as principal places of residence, directed that contract establish maximum monthly rent permitted with respect to home and real property on which it was located and provided formula for calculating amount of monthly assistance, provided for adjustments, set forth minimum and maximum terms, in the case of substantially rehabilitated or newly constructed park, provided limit on principal amount of mortgage attributable to rental spaces within park, and authorized Secretary to prescribe other terms and conditions necessary for purpose of carrying out subsection.

Subsec. (n). Pub. L. 105–276, § 550(a)(7), struck out subsec. (n) which read as follows: ''In making assistance available under subsections (b)(1) and (e)(2) of this section, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

''(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

''(2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and

''(3) in the case of assistance under subsection (b)(1) of this section, the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards.

The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection.''

Subsec. (*o*). Pub. L. 105–276, § 545(a), amended subsec. (*o*) generally. Prior to amendment, subsec. (*o*) contained provisions relating to assistance using a payment standard based upon fair market rental, categories of families eligible for assistance and preferences, contracts with public housing agencies for annual contributions, annual adjustments of assistance payment amounts, assistance with respect to certain cooperative and mutual housing, contracts to provide rental vouchers, set asides of budget authority for an adjustment pool, reasonable rent requirements and disapproval of leases with unreasonable rents, and assistance on behalf of families utilizing manufactured homes as principal places of residence.

Subsec. (*o*)(2). Pub. L. 105–276, § 209(a), inserted at end ''Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family's monthly adjusted income or 10 percent of the family's monthly income.'' Notwithstanding sections 209(b) and 503 of Pub. L. 105–276, set out as Effective Date of 1998 Amendment notes below and under section 1437 of this title, this amendment was executed before the amendment

by section 545(a) of Pub. L. 105–276 to reflect the probable intent of Congress and the provisions of section 545(c) of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note below, and section 559 of Pub. L. 105–276, set out as a Regulations note below.

Subsec. (q). Pub. L. 105–276, § 547, amended subsec. (q) generally, substituting present provisions for provisions which authorized establishment of fee for costs incurred in administering certificate and housing voucher programs under subsecs. (b) and (*o*) of this section, costs of preliminary expenses in connection with new allocations of assistance, costs incurred in assisting families who experienced difficulty in obtaining appropriate housing under the programs, and extraordinary costs; provisions which set forth use of fees for employing one or more service coordinators to coordinate provision of supportive services for elderly or disabled families on whose behalf assistance was provided; and provision which limited establishment or increase of fees to amounts provided in appropriation Acts.

Subsec. (r). Pub. L. 105–276, § 553(3), inserted heading, added par. (1), and struck out former par. (1) which read as follows: ''Any family assisted under subsection (b) or (*o*) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same State, or the same or a contiguous metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency.''

Subsec. (r)(2). Pub. L. 105–276, § 553(1), struck out at end ''If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.''

Subsec. (r)(3). Pub. L. 105–276, § 553(2), struck out ''(b) or'' before ''(*o*) of this section for'' and inserted at end ''The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (*o*) of this section to compensate those public housing agencies.''

Subsec. (r)(5). Pub. L. 105–276, § 553(5), added par. (5).

Subsec. (t). Pub. L. 105–276, § 554, struck out subsec. (t). For text, see 1996 Amendment note below.

Subsec. (u). Pub. L. 105–276, § 550(a)(8), in pars. (1) and (3), struck out ''certificates or'' before ''vouchers'' and, in par. (2), struck out '', certificates'' before ''or vouchers''.

Subsec. (x)(2). Pub. L. 105–276, § 550(a)(9), substituted ''tenant-based assistance'' for ''housing certificate assistance''.

Subsec. (y)(1). Pub. L. 105–276, § 555(a)(1)(A), in introductory provisions, substituted ''A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family'' for ''A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family''.

Subsec. (y)(1)(A). Pub. L. 105–276, § 555(a)(1)(B), inserted '', or owns or is acquiring shares in a cooperative'' before semicolon at end.

Subsec. (y)(1)(B). Pub. L. 105–276, § 555(a)(1)(C), struck out cl. (i), redesignated cl. (ii) as entire subpar., and inserted '', except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family'' after ''public assistance''. Prior to amendment, cl. (i) read as follows: ''participates in the family self-sufficiency program under section 1437u of this title of the public housing agency providing the assistance; or''.

Subsec. (y)(2). Pub. L. 105–276, § 555(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

''(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) of this section exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

''(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.''

Subsec. (y)(3), (4). Pub. L. 105–276, § 555(a)(3), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

''(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

''(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 1437u(d) of this title. Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.''

Subsec. (y)(5). Pub. L. 105–276, § 555(a)(3), (4), redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: ''A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 1472 of this title.''

Subsec. (y)(6) to (8). Pub. L. 105–276, § 555(a)(4), redesignated pars. (7) and (8) as (6) and (7), respectively. Former par. (6) redesignated (5).

Subsec. (z). Pub. L. 105–276, § 548(1), made technical amendment relating to placement of subsection.

Subsec. (cc). Pub. L. 105–276, § 548(2), added subsec. (cc).

Subsec. (dd). Pub. L. 105–276, § 556(a), added subsec. (dd).

1997—Subsec. (c)(2)(A). Pub. L. 105–65, §§ 201(c), 205, substituted ''fiscal years 1997 and 1998'' for ''fiscal year 1997'' in third and sixth sentences and inserted at end ''In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.''

Pub. L. 105–33, §§ 2003, 2004, inserted '', and during fiscal year 1999 and thereafter'' before period at end of third and sixth sentences.

Subsec. (c)(9). Pub. L. 105–18, which directed substitution of ''Not less than 180 days prior to terminating any contract'' for ''Not less than one year prior to terminating any contract'', was executed by making the substitution for ''Not less than 1 year prior to terminating any contract'' to reflect the probable intent of Congress.

Subsec. (d)(5). Pub. L. 105–65, § 523(a), added par. (5).

Subsec. (bb). Pub. L. 105–65, § 523(c), inserted heading, designated existing provisions as par. (1) and former subsec. heading as par. (1) heading, and added par. (2).

1996—Subsec. (c)(2)(A). Pub. L. 104–204 inserted '', fiscal year 1996 prior to April 26, 1996, and fiscal year 1997'' after ''fiscal year 1995'' in two places, substituted ''Except for assistance under the certificate program, for'' for ''For'', inserted after fourth sentence ''In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.'', and substituted ''The immediately foregoing two sentences'' for ''The immediately foregoing sentence''.

Subsec. (c)(8). Pub. L. 104–134, § 101(e) [title II, § 203(b)(1), (d)], temporarily inserted ''(other than a contract for assistance under the certificate or voucher program)'' after ''section''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (c)(9). Pub. L. 104–134, § 101(e) [title II, § 203(b)(2), (d)], temporarily substituted '', other than a contract under the certificate or voucher program'' for ''(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (*o*) of this section)''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(A). Pub. L. 104–99, § 402(d)(2), (f), temporarily amended subpar. (A) generally, substituting ''the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;'' for ''the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

''(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12) at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;

''(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2) of this section; (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (VI) achieving other objectives of national housing policy as affirmed by Congress; and

''(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);''.

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(ii), (iii). Pub. L. 104–134, § 101(e) [title II, § 203(c), (d)], in cl. (ii) temporarily inserted ''during the term of the lease,'' after ''(ii)'' and in cl. (iii) temporarily substituted ''during the term of the lease,'' for ''provide that''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(v). Pub. L. 104–193, § 903(a)(2), added cl. (v).

Subsec. (d)(2)(A). Pub. L. 104–99, § 402(d)(6)(A)(iii), (f), temporarily struck out at end ''Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(2)(H). Pub. L. 104–99, § 402(d)(6)(A)(iv), (f), temporarily substituted ''An owner'' for ''Notwithstanding subsection (d)(1)(A)(i) of this section, an owner''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (*o*)(3)(B). Pub. L. 104–99, § 402(d)(3), (f), temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''In selecting families to be assisted, preference shall be given to families which, at the time they are seeking assistance, occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12), or are paying more than 50 per centum of family income for rent. A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be ap-

propriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference. The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (t). Pub. L. 104–134, § 101(e) [title II, § 203(a), (d)], temporarily repealed subsec. (t) which read as follows:

''(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

''(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

''(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (*o*) of this section, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

''(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (v). Pub. L. 104–99, § 405(c), amended subsec. (v) generally. Prior to amendment, subsec. (v) read as follows:

''(1) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

''(2)(A) The eligiblity of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

''(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.''

Subsec. (bb). Pub. L. 104–134, § 101[(e)] [title II, § 208], added subsec. (bb).

1995—Subsec. (z). Pub. L. 104–19 added subsec. (z).

1994—Subsec. (c)(2)(A). Pub. L. 103–327 inserted at end: ''However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995. For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995.''

Subsec. (d)(1)(A)(i). Pub. L. 103–233, § 101(c)(2), inserted ''(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)'' after ''displaced''.

Subsec. (d)(1)(A)(ii). Pub. L. 103–327 which directed the amendment of cl. (ii) by striking ''and (V)'' and inserting in lieu thereof ''(V) assisting families that include one or more adult members who are employed; and (VI)'', and inserting after the final semicolon ''subclause (V) shall be effective only during fiscal year 1995;'', was not executed because the words ''and (V)'' did not appear and cl. (ii) already contains subcls. (V) and (VI). See 1992 Amendment note below.

Subsec. (f)(1). Pub. L. 103–233, § 101(d), inserted ''an agency of the Federal Government,'' after ''cooperative,''.

Subsec. (*o*)(3)(B). Pub. L. 103–233, § 101(c)(3), inserted ''(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)'' after ''displaced''.

Subsec. (aa). Pub. L. 103–327 temporarily added subsec. (aa), ''Refinancing incentive'', which read as follows:

''(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

''(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

''(B) is subject to an assistance contract under this section; and

''(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

''(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

''(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

''(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.''

See Effective and Termination Dates of 1994 Amendment note below.

1992—Subsec. (c)(2)(B). Pub. L. 102–550, § 1012(g), inserted at end ''The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.''

Pub. L. 102–550, § 142, inserted after first sentence ''The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.''

Subsec. (c)(4). Pub. L. 102–550, § 141(a), inserted ''or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990'' after first comma in first sentence.

Subsec. (c)(9). Pub. L. 102–550, § 143, inserted before period at end '', and such term shall include termination of the contract for business reasons''.

Subsec. (d)(1)(A)(ii)(V), (VI). Pub. L. 102–550, § 144(a), added subcl. (V) and redesignated former subcl. (V) as (VI).

Subsec. (d)(1)(B)(iii). Pub. L. 102–550, § 145, inserted '', any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises,'' before ''or any drug-related'' and substituted ''tenant of any unit'' for ''public housing tenant''.

Subsec. (d)(2)(F). Pub. L. 102–550, § 674, added subpar. (F).

Subsec. (d)(2)(G), (H). Pub. L. 102–550, § 682(b), added subpars. (G) and (H).

Subsec. (d)(4). Pub. L. 102–550, § 660, added par. (4).

Subsec. (f)(6), (7). Pub. L. 102–550, § 146, added pars. (6) and (7).

Subsec. (i). Pub. L. 102–550, § 623(b), added subsec. (i).

Subsec. (*o*)(3)(A). Pub. L. 102–550, § 141(b), struck out ''or'' before ''(iv)'' and inserted before period at end '', or'' and cl. (v).

Subsec. (*o*)(3)(B)(v), (vi). Pub. L. 102–550, § 144(b), in third sentence, added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (q)(3), (4). Pub. L. 102–550, § 675, added par. (3) and redesignated former par. (3) as (4).

Subsec. (r)(1). Pub. L. 102–550, § 147, inserted before period at end ''; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency''.

Subsec. (x)(1). Pub. L. 102–550, § 148, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by $35,000,000 on or after October 1, 1990, by $35,000,000 on or after October 1, 1991.''

Subsec. (y). Pub. L. 102–550, § 185(a), added subsec. (y).

1991—Subsec. (c)(1). Pub. L. 102–139 inserted provisions relating to separate fair market rentals for Monroe County, Pennsylvania.

1990—Subsec. (a). Pub. L. 101–625, § 572(1), which directed the substitution of ''low-income families'' for ''lower income families'', was executed by making the substitution for ''lower-income families'' to reflect the probable intent of Congress.

Pub. L. 101–625, § 548(b), inserted at end ''A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.''

Subsec. (b). Pub. L. 101–625, § 541(a), inserted heading and struck out par. (1) designation preceding text.

Subsec. (b)(2). Pub. L. 101–625, § 413(b)(1), added par. (2).

Subsec. (c)(1). Pub. L. 101–625, § 543(b), inserted ''(A)'' after second reference to ''fair market rental'' and substituted ''a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B).'' for ''a local housing assistance plan as defined in section 1439(a)(5) of this title.''

Subsec. (c)(2)(B). Pub. L. 101–625, § 542, inserted at end ''Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence.''

Subsec. (c)(3). Pub. L. 101–625, § 543(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 101–625, § 544, inserted after first sentence ''The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.'' and inserted at end ''Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.''

Subsec. (c)(10). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing''.

Subsec. (d)(1)(A). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing, are paying more than 50 per centum of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;''.

Subsec. (d)(1)(B)(iii), (iv). Pub. L. 101–625, § 546, added cls. (iii) and (iv).

Subsec. (d)(2)(A). Pub. L. 101–625, § 552(b), inserted after first sentence ''The Secretary shall permit public housing agencies to enter into contracts for assistance

payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.''

Pub. L. 101–625, § 613(a)(1), inserted at end ''Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.''

Subsec. (d)(2)(C). Pub. L. 101–625, § 613(a)(2), inserted at end ''To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.''

Pub. L. 101–625, § 547(c), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the public housing agency but subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years.''

Subsec. (d)(2)(D), (E). Pub. L. 101–625, § 547(a), (b), added subpars. (D) and (E).

Subsec. (e)(2). Pub. L. 101–625, § 289(b), struck out par. (2) which read as follows: ''For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary, and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 20 per centum if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the fair market rentals by more than 20 but not more than 30 per centum where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local housing assistance plan. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading. The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development. In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.''

Subsec. (f)(1). Pub. L. 101–625, § 548(a), substituted ''dwelling units'' for ''newly constructed or substantially rehabilitated dwelling units as described in this section''.

Subsec. (f)(4), (5). Pub. L. 101–625, § 549, added pars. (4) and (5).

Subsec. (j)(1). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' in introductory provisions.

Subsec. (*o*). Pub. L. 101–625, § 541(b), inserted heading.

Subsec. (*o*)(3). Pub. L. 101–625, § 545(2)[(b)], inserted ''(A)'' after ''(3)'', redesignated former cls. (A) to (D) as cls. (i) to (iv), respectively, inserted ''(B)'' before ''In selecting families'', ''(including families that are homeless or living in a shelter for homeless families)'' after ''substandard housing'', and inserted at end ''The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).''

Pub. L. 101–625, § 413(a), added cl. (D).

Subsec. (*o*)(7). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families''.

Subsec. (*o*)(9). Pub. L. 101–625, § 413(b)(2), added par. (9).

Subsec. (*o*)(10), (11). Pub. L. 101–625, § 550(a), (c), added pars. (10) and (11).

Subsec. (r)(1). Pub. L. 101–625, § 551, substituted ''the same State, or the same or a contiguous'' for ''the same, or a contiguous,''.

Subsec. (u). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' in introductory provisions.

Subsec. (v)(1). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families''.

Subsec. (v)(2)(B). Pub. L. 101–625, § 603, which directed the substitution of ''Low-Income Housing Preservation and Resident Homeownership Act of 1990'' for ''Emergency Low Income Housing Preservation Act of 1987'' in section ''89(v)(2) of the United States Housing Act of 1937'', was executed to subsec. (v)(2)(B) of this section (section 8 of the United States Housing Act of 1937) to reflect the probable intent of Congress.

Subsecs. (w), (x). Pub. L. 101–625, §§ 552(a), 553, added subsecs. (w) and (x).

1989—Subsec. (c)(2)(C). Pub. L. 101–235, § 702(g), substituted ''quality, type, and age'' for ''quality and age''.

Pub. L. 101–235, § 702(c), inserted after first sentence ''In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.''

Subsec. (e)(2). Pub. L. 101–235, § 127(1), inserted before period at end of first sentence '', and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems''.

Pub. L. 101–235, § 127(2), (3), inserted at end ''In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.''

1988—Subsec. (b)(1). Pub. L. 100–242, § 141, inserted provisions at end authorizing Secretary to enter into separate contributions contracts with each public housing agency to obligate authority approved each year, beginning with fiscal year 1988.

Subsec. (c)(1). Pub. L. 100–242, § 142(a), inserted before last sentence ''Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.''

Pub. L. 100–242, § 142(b), inserted at end ''The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.''

Pub. L. 100–242, § 142(c)(1), inserted at end ''If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.''

Subsec. (c)(2)(C). Pub. L. 100–628, § 1004(a)(1), substituted ''under subparagraphs (A) and (B)'' for ''as hereinbefore provided''.

Pub. L. 100–628, § 1004(a)(2), inserted at end ''Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.''

Pub. L. 100–242, § 142(c)(2), substituted ''assisted units and unassisted units of similar quality and age in the same market area'' for ''assisted and comparable unassisted units'' and inserted at end ''If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.''

Pub. L. 100–242, § 142(d), inserted at end ''The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.''

Subsec. (c)(2)(D). Pub. L. 100–242, § 142(e), struck out subpar. (D) which read as follows: ''Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units.''

Subsec. (c)(9), (10). Pub. L. 100–242, § 262(a), (b), added pars. (9) and (10).

Subsec. (d)(1)(A). Pub. L. 100–628, § 1014(b), inserted cl. (i) designation after ''except that'' and added cl. (ii) before semicolon at end.

Subsec. (d)(2). Pub. L. 100–628, § 1005(b)(1), designated existing provisions as subpar. (A), substituted ''(i)'' and ''(ii)'' for ''(A)'' and ''(B)'' wherever appearing, and added subpar. (B).

Pub. L. 100–628, § 1005(c), added subpar. (C).

Pub. L. 100–242, § 148, inserted exception authorizing Secretary to permit public housing authority to approve attachment with respect to not more than 15 percent of assistance provided by public housing agency if requirements of cl. (B) are met.

Subsec. (*o*)(1). Pub. L. 100–242, § 143(a)(1), substituted ''The Secretary may provide assistance'' for ''In connection with the rental rehabilitation and development program under section 1437*o* of this title or the rural housing preservation grant program under section 1490m of this title, or for other purposes, the Secretary is authorized to conduct a demonstration program''.

Subsec. (*o*)(3). Pub. L. 100–628, § 1014(c), inserted sentence at end authorizing public housing agencies to provide for circumstances in which families who do not qualify for any preference are provided assistance under this subsection before families who do qualify for such preference.

Subsec. (*o*)(4). Pub. L. 100–242, § 143(a)(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''The Secretary shall use substantially all of the authority to enter into contracts under this subsection to make assistance payments for families residing in dwellings to be rehabilitated with assistance under section 1437*o* of this title and for families displaced as a result of rental housing development assisted under such section or as a result of activities assisted under section 1490m of this title.''

Subsec. (*o*)(5). Pub. L. 100–242, § 143(a)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (*o*)(6). Pub. L. 100–242, § 143(a)(3), (b), redesignated par. (7) as (6), substituted ''annually'' for ''as frequently as twice during any five-year period'' in subpar. (A), and struck out subpar. (D) which directed that public housing agency consult with public and units of local government regarding impact of adjustments made under this section on the number of families that can be assisted. Former par. (6) redesignated (5).

Subsec. (*o*)(7). Pub. L. 100–242, § 143(a)(3), (c), redesignated par. (8) as (7), and struck out ''not to exceed 5 per centum of the amount of'' after ''utilize''. Former par. (7) redesignated (6).

Subsec. (*o*)(8). Pub. L. 100–242, § 143(a)(3), (d), added par. (8). Former par. (8) redesignated (7).

Subsecs. (q) to (u). Pub. L. 100–242, §§ 144–149, added subsecs. (q) to (u).

Subsec. (u)(3). Pub. L. 100–628, § 1006, added par. (3).

Subsec. (v). Pub. L. 100–628, § 1029, redesignated par. (2) as (1) and inserted ''for project-based loan management assistance'', added par. (2), and struck out former par. (1) which required that each contract entered into by Secretary for loan management assistance be for a term of 180 months.

Pub. L. 100–242, § 262(c), added subsec. (v).

1984—Subsec. (d)(2). Pub. L. 98–479, § 102(b)(6), substituted ''Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section.'' for ''A contract under this section may not be attached to the structure except where the Secretary specifically waives the foregoing limitation and the public housing agency approves such action, and the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section. The aggregate term of such contract and any contract extension may not be more than 180 months.''

Subsec. (e)(2). Pub. L. 98–479, § 102(b)(7), inserted at end ''The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development.''

Subsec. (n). Pub. L. 98–479, § 102(b)(8), substituted ''subsections (b)(1) and (e)(2) of this section'' for ''subsection (b)(1), subsection (e)(2) of this section''.

Subsec. (*o*)(3)(C). Pub. L. 98–479, § 102(b)(9), added cl. (C).

Subsec. (*o*)(7)(D). Pub. L. 98–479, § 102(b)(10), inserted ''unit of'' before ''general''.

1983—Subsec. (a). Pub. L. 98–181, § 209(a)(1), substituted ''existing housing'' for ''existing, newly constructed, and substantially rehabilitated housing''.

Subsec. (b)(2). Pub. L. 98–181, § 209(a)(2), repealed par. (2) which related to authorization of assistance payments by the Secretary and contractually obligated public housing agencies for construction or substantial rehabilitation of housing, modest in design, with units for occupancy by low-income families and requirement that contracts providing housing assistance and entered into after Aug. 13, 1981, specify the number of units available for occupancy by eligible families.

Subsec. (d)(1)(A). Pub. L. 98–181, § 203(b)(1), inserted '', are paying more than 50 per centum of family income for rent,''.

Subsec. (d)(2). Pub. L. 98–181, § 208, inserted second and third sentences respecting waiver of limitation and limitation of contract and any extension to prescribed period.

Subsec. (e)(1). Pub. L. 98–181, § 209(a)(3), redesignated par. (4) as (1) and struck out former par. (1) which prescribed terms of 20 to 30 years for newly constructed or substantially rehabilitated dwelling units.

Subsec. (e)(2). Pub. L. 98–181, § 209(a)(3), redesignated par. (5) as (2) and struck out former par. (2) which required owners to assume ownership, management, and maintenance responsibilities, including selection of tenants and termination of tenancy for newly constructed or substantially rehabilitated dwelling units.

Pub. L. 98–181, § 203(b)(2), inserted '', are paying more than 50 per centum of family income for rent,'' after ''substandard housing''.

Subsec. (e)(3). Pub. L. 98–181, § 209(a)(3), struck out par. (3) which required that construction or substantial rehabilitation of dwelling units be eligible for mortgages insured under the National Housing Act and that assistance not be withheld by reason of availability of mortgage insurance under section 1715z–9 of title 12 or tax-exempt status obligations used to finance the construction or rehabilitation.

Subsec. (e)(4), (5). Pub. L. 98–181, § 209(a)(3), redesignated pars. (4) and (5) as (1) and (2), respectively.

Subsec. (i). Pub. L. 98–181, § 209(a)(4), repealed subsec. (i) which related to contracts with respect to substantially rehabilitated dwelling units.

Subsecs. (*l*), (m). Pub. L. 98–181, § 209(a)(5), repealed subsec. (*l*) relating to limitation of cost and rent increases, and subsec. (m) relating to preference for projects on suitable State and local government tracts.

Subsec. (n). Pub. L. 98–181, § 209(a)(6), substituted ''subsection (e)(2) of this section'' for ''subsection (e)(5) and subsection (i) of this section''.

Pub. L. 98–181, § 210(1), (2), inserted ''subsection (b)(1) of this section,'' before ''subsection (e)(5)'' and a comma after ''subsection (e)(5) of this section''.

Subsec. (n)(3). Pub. L. 98–181, § 210(3)–(5), added par. (3).

Subsec. (*o*). Pub. L. 98–181, § 207, added subsec. (*o*).

Subsec. (p). Pub. L. 98–181, § 211, added subsec. (p).

1981—Subsec. (b)(2). Pub. L. 97–35, §§ 324(1), 325(1), inserted provisions relating to increasing housing opportunities for very low-income families and provisions relating to availability for occupancy the number of units for which assistance is committed.

Subsec. (c)(2)(D). Pub. L. 97–35, § 324(2), added par. (D).

Subsec. (c)(3). Pub. L. 97–35, § 322(e)(1), revised formula for computation of amount of monthly assistance and struck out authority to make reviews at least every two years in cases of elderly families.

Subsec. (c)(5). Pub. L. 97–35, § 325(2), inserted reference to mortgages under section 1720 of title 12.

Subsec. (c)(7). Pub. L. 97–35, § 322(e)(2), struck out par. (7) relating to percentage requirement for families with very low income and redesignated former par. (8) as (7).

Subsec. (c)(8). Pub. L. 97–35, § 326(a), added par. (8). Former par. (8) redesignated (7).

Subsec. (d)(1)(B). Pub. L. 97–35, § 326(e)(1), substituted provisions relating to terms and conditions, and termination of the lease by the owner for provisions relating to right of the agency to give notice to terminate and owner the right to make representation to agency for termination of the tenancy.

Subsec. (f). Pub. L. 97–35, § 322(e)(3), struck out pars. (1) to (3) which defined ''lower income families'', ''very low-income families'' and ''income'', respectively, and redesignated pars. (4) to (6) as (1) to (3), respectively.

Subsec. (h). Pub. L. 97–35, § 322(e)(4), (5), struck out reference to section 1437a(1) of this title.

Subsec. (j). Pub. L. 97–35, § 329H(a), generally revised and reorganized provisions and, as so revised and reorganized, substituted provisions relating to contracts to make assistance payments to assist lower income families by making rental assistance payments on behalf of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 97–35, § 322(e)(6), substituted in par. (3) ''the rent the family is required to pay under section 1437a(a) of this title'' for ''25 per centum of one-twelfth of the annual income of such family''.

Subsecs. (*l*) to (n). Pub. L. 97–35, § 324(3), added subsecs. (*l*) to (n).

1980—Subsec. (c)(1). Pub. L. 96–399, § 203(a), inserted provision that in the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after Oct. 1, 1980.

Subsec. (e)(5). Pub. L. 96–399, § 203(b), inserted provision relating to the authority of the Secretary, notwithstanding subsec. (c)(1) of this section, to establish monthly rent exceeding fair market rental where cost levels so require or where necessary to the implementation of a local housing assistance plan.

Subsec. (j). Pub. L. 96–399, § 308(c)(3), substituted ''manufactured home'' for ''mobile home'' wherever appearing.

1979—Subsec. (c)(3). Pub. L. 96–153, § 202(b), substituted new provisions for computation of the amount of monthly assistance payments with respect to dwelling units and laid down criteria to be followed by the Secretary in regard to payments to families with different income levels.

Subsec. (d)(1)(A). Pub. L. 96–153, § 206(b)(1), substituted ''Secretary and the agency, except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section.'' for ''Secretary and the agency;''.

Subsec. (e)(1). Pub. L. 96–153, § 211(b), substituted ''term of less than two hundred and forty months'' for ''term of less than one month''.

Subsec. (e)(2). Pub. L. 96–153, § 206(b)(2), substituted ''performance of such responsibilities), except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section'' for ''performance of such responsibilities)''.

Subsec. (k). Pub. L. 96–153, § 210, added subsec. (k).

1978—Subsec. (e)(5). Pub. L. 95–557, § 206(e), added par. (5).

Subsec. (i). Pub. L. 95–557, § 206(d)(1), added subsec. (i).

Subsec. (j). Pub. L. 95–557, § 206(f), added subsec. (j).

1977—Subsec. (c), Pub. L. 95–128, § 201(c), (d), inserted in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and struck out from par. (4) provision which prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z–9 of title 12.

Subsec. (d)(3). Pub. L. 95–128, § 201(e)(1), added par. (3).

Subsec. (e)(1). Pub. L. 95–24 substituted ''three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z–9 of title 12'' for ''two hundred and forty months'' and ''Notwithstanding the preceding sentence, in the case of'' for ''In the case of''.

Subsec. (e)(2). Pub. L. 95–128, § 201(e)(2), inserted provision respecting the Secretary's approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

1976—Subsec. (c)(4). Pub. L. 94–375, § 2(d), inserted provision extending payments to newly constructed or substantially rehabilitated unoccupied units in an amount equal to the debt service of such unit for a period not to exceed one year, provided that a good faith effort is being made to fill the unit, the unit provides decent and safe housing, the unit is not insured under the National Housing Act, except pursuant to section 1715z–9 of title 12, and the revenues from the project do not exceed the cost.

Subsec. (e)(1). Pub. L. 94–375, § 2(g), inserted ''or the Farmers' Home Administration'' after ''State or local agency''.

Subsec. (f)(6). Pub. L. 94–375, § 2(e), added par. (6).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–116 effective Sept. 30, 2001, see section 603 of Pub. L. 107–116, set out as a note under section 1715n of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title III, § 301(b), Dec. 27, 2000, 114 Stat. 2952, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect immediately after the amendments made by section 555(c) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note below] take effect pursuant to such section.''

Pub. L. 106–569, title IX, § 902(b), Dec. 27, 2000, 114 Stat. 3026, provided that: ''The amendment under subsection (a) [amending this section] shall be made and shall apply—

''(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

''(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.''

Pub. L. 106–569, title IX, § 903(b), Dec. 27, 2000, 114 Stat. 3026, provided that: ''The amendment under subsection (a) [amending this section] shall be made and shall apply—

''(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

''(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title II, § 209(b), Oct. 21, 1998, 112 Stat. 2485, provided that: ''This section [amending this section] shall take effect 60 days after the later of October 1, 1998 or the date of the enactment of this Act [Oct. 21, 1998].''

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Amendment by section 514(b)(1) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105–276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105–276, title V, § 545(c), Oct. 21, 1998, 112 Stat. 2604, provided that: ''Notwithstanding the amendment made by subsection (a) of this section [amending this section], any amendments to section 8(*o*) of the United States Housing Act of 1937 (42 U.S.C. 1437f(*o*)) that are contained in title II of this Act [see Tables for classification] shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title [set out as a Regulations and Transition Provisions note below]) of such section 8(*o*) as amended by subsection (a) of this section.''

Pub. L. 105–276, title V, § 549(a)(3), Oct. 21, 1998, 112 Stat. 2607, provided that: ''The amendments under this subsection [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998], and shall apply thereafter, notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [section 101(e) [title II, § 203] of Pub. L. 104–134, amending this section and enacting provisions set out as an Effective and Termination Dates of 1996 Amendments note below] (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).''

Pub. L. 105–276, title V, § 554, Oct. 21, 1998, 112 Stat. 2611, provided that: ''Notwithstanding section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134; 42 U.S.C. 1437f note) [see Effective and Termination Dates of 1996 Amendments note below]), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning upon, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

Pub. L. 105–276, title V, § 555(c), Oct. 21, 1998, 112 Stat. 2613, provided that: ''This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

Amendment by section 565(c) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 565(e) of Pub. L. 105–276, set out as a note under section 1437d of this title.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Section 101(e) [title II, § 203(d)] of Pub. L. 104–134, as amended by Pub. L. 104–204, title II, § 201(e), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–65, title II, § 201(b), Oct. 27, 1997, 111 Stat. 1364, provided that: ''The provisions of this section [amending this section] shall be effective for fiscal years 1996, 1997, and 1998 only.''

Amendment by section 402(d)(2), (3), (6)(A)(iii), (iv) of Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by Pub. L. 103–327 enacting subsec. (aa), effective only during fiscal year 1995, see title II in part of Pub. L. 103–327, set out as a note under section 1715n of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 289(b)(1) of Pub. L. 101–625, repealing subsec. (e)(2) of this section, effective Oct. 1, 1991; however, provisions of subsec. (e)(2) to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV (§ 11361 et seq.) of chapter 119 of this title, see section 12839(a)(4), (b) of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; SAVINGS PROVISION

Section 209(b) Pub. L. 98–181 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

''(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 [this section] prior to January 1, 1984; and

''(2) with respect to any project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendments by sections 322(e) and 329H(a) of Pub. L. 97–35 effective Oct. 1, 1981, and amendments by sections 324, 325, and 326(a) of Pub. L. 97–35 applicable with respect to contracts entered into on or after Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

Section 326(e)(2) of Pub. L. 97–35 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to leases entered into on or after October 1, 1981.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 202(b) of Pub. L. 96–153 effective Jan. 1, 1980, except with respect to amount of tenant contribution required of families whose occupancy commenced prior to such date, see section 202(c) of Pub. L. 96–153, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 206(d)(2) of Pub. L. 95–557 provided that: ''The amendment made by this subsection [amending this section] shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act [Oct. 31, 1978].''

Amendment by section 206(e), (f) of Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective not later than Jan. 1, 1975, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

APPLICABILITY OF 1994 AMENDMENTS

Title II of Pub. L. 103–327, 108 Stat. 2315, third par., provided that: ''The immediately foregoing amendment [amending subsec. (c)(2)(A) of this section by authorizing modification of rent adjustment where adjusted rent exceeds fair market rental] shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] by applying an annual adjustment factor.''

Title II of Pub. L. 103–327, 108 Stat. 2315, fifth par., provided that: ''The immediately foregoing [amending

subsec. (c)(2)(A) of this section by inserting two sentences at end authorizing reduction of annual adjustment factor in certain circumstances] shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] and that provide for rent adjustments using an annual adjustment factor.''

REGULATIONS AND TRANSITION PROVISIONS

Pub. L. 105–276, title V, § 559, Oct. 21, 1998, 112 Stat. 2615, provided that:

''(a) INTERIM REGULATIONS.—The Secretary of Housing and Urban Development shall issue such interim regulations as may be necessary to implement the amendments made by this subtitle [subtitle C (§§ 545–559) of title V of Pub. L. 105–276, see Tables for classification] and other provisions in this title [see Tables for classification] which relate to section 8(*o*) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)].

''(b) FINAL REGULATIONS.—The Secretary shall issue final regulations necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(*o*) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)] not later then 1 year after the date of the enactment of this Act [Oct. 21, 1998].

''(c) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under subsection (b), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

''(1) seek recommendations on the implementation of sections 8(*o*)(6)(B), 8(*o*)(7)(B), and 8(*o*)(10)(D) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)(6)(B), (7)(B), (10)(D)] and of renewals of expiring tenant-based assistance from organizations representing—

''(A) State or local public housing agencies;

''(B) owners and managers of tenant-based housing assisted under section 8 of the United States Housing Act of 1937;

''(C) families receiving tenant-based assistance under section 8 of the United States Housing Act of 1937; and

''(D) legal service organizations; and

''(2) convene not less than 2 public forums at which the persons or organizations making recommendations under paragraph (1) may express views concerning the proposed disposition of the recommendations.

''(d) CONVERSION ASSISTANCE.—

''(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (*o*) of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(b), (*o*)], as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

''(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act [Oct. 21, 1998] (except that such provisions shall be subject to any amendments to such provisions that may be contained in title II of this Act [see Tables for classification]), to assistance obligated by the Secretary before October 1, 1999, for the certificate or voucher program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

''(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

REGULATIONS

Pub. L. 105–276, title V, § 556(b), Oct. 21, 1998, 112 Stat. 2613, provided that: ''The Secretary of Housing and Urban Development shall implement the provision added by the amendment made by subsection (a) [amending this section] through notice, not later than December 31, 1998, and shall issue final regulations which shall be developed pursuant to the procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, not later than one year after the date of the enactment of this Act [Oct. 21, 1998].''

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

For provision requiring that not later than expiration of the 180-day period beginning Oct. 28, 1992, the Secretary of Housing and Urban Development shall issue regulations implementing amendments to this section by section 545 of Pub. L. 101–625, see section 104 of Pub. L. 102–550, set out as a note under section 1437d of this title.

Section 149 of Pub. L. 102–550 provided that: ''The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.''

Section 151 of Pub. L. 102–550 provided that: ''The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625] (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.''

SAVINGS PROVISION

Pub. L. 106–377, § 1(a)(1) [title II, § 232(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–34, provided that: ''In the case of any dwelling unit that, upon the date of the enactment of this Act [Oct. 27, 2000], is assisted under a housing assistance payment contract under section 8(*o*)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(*o*)(13)) as in effect before such enactment, such assistance may be extended or renewed notwithstanding the requirements under subparagraphs (C), (D), and (E) of such section 8(*o*)(13), as amended by subsection (a).''

PURPOSES OF MARK-TO-MARKET EXTENSION ACT OF 2001

Pub. L. 107–116, title VI, § 602, Jan. 10, 2002, 115 Stat. 2221, provided that: ''The purposes of this title [see Short Title of 2002 Amendment note set out under section 1437 of this title] are—

''(1) to continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [title V of Pub. L. 105–65, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking] (referred to in this section as 'that Act');

''(2) to ensure that properties that undergo mortgage restructurings pursuant to that Act are rehabilitated to a standard that allows the properties to meet their long-term affordability requirements;

''(3) to ensure that, for properties that undergo mortgage restructurings pursuant to that Act, reserves are set at adequate levels to allow the properties to meet their long-term affordability requirements;

''(4) to ensure that properties that undergo mortgage restructurings pursuant to that Act are operated efficiently, and that operating expenses are sufficient to ensure the long-term financial and physical integrity of the properties;

''(5) to ensure that properties that undergo rent restructurings have adequate resources to maintain the properties in good condition;

''(6) to ensure that the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development continues to focus on the portfolio of properties eligible for restructuring under that Act;

''(7) to ensure that the Department of Housing and Urban Development carefully tracks the condition of those properties on an ongoing basis;

''(8) to ensure that tenant groups, nonprofit organizations, and public entities continue to have the resources for building the capacity of tenant organizations in furtherance of the purposes of subtitle A of that Act [subtitle A of title V of Pub. L. 105–65, set out in a note below]; and

''(9) to encourage the Office of Multifamily Housing Assistance Restructuring to continue to provide participating administrative entities, including public participating administrative entities, with the flexibility to respond to specific problems that individual cases may present, while ensuring consistent outcomes around the country.''

PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES

Pub. L. 106–569, title III, § 302, Dec. 27, 2000, 114 Stat. 2953, provided that:

''(a) IN GENERAL.—A public housing agency providing tenant-based assistance on behalf of an eligible family under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may provide assistance for a disabled family that purchases a dwelling unit (including a dwelling unit under a lease-purchase agreement) that will be owned by one or more members of the disabled family and will be occupied by the disabled family, if the disabled family—

''(1) purchases the dwelling unit before the expiration of the 3-year period beginning on the date that the Secretary first implements the pilot program under this section;

''(2) demonstrates that the disabled family has income from employment or other sources (including public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

''(3) except as provided by the Secretary, demonstrates at the time the disabled family initially receives tenant-based assistance under this section that one or more adult members of the disabled family have achieved employment for the period as the Secretary shall require;

''(4) participates in a homeownership and housing counseling program provided by the agency; and

''(5) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

''(b) DETERMINATION OF AMOUNT OF ASSISTANCE.—

''(1) IN GENERAL.—

''(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the disabled family.

''(ii) Ten percent of the monthly income of the disabled family.

''(iii) If the disabled family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the disabled family, is specifically designated by that agency to meet the housing costs of the disabled family, the portion of those payments that is so designated.

''(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

''(2) CALCULATION OF AMOUNT.—

''(A) LOW-INCOME FAMILIES.—A disabled family that is a low-income family shall be eligible to receive 100 percent of the amount calculated under paragraph (1).

''(B) INCOME BETWEEN 81 AND 89 PERCENT OF MEDIAN.—A disabled family whose income is between 81 and 89 percent of the median for the area shall be eligible to receive 66 percent of the amount calculated under paragraph (1).

''(C) INCOME BETWEEN 90 AND 99 PERCENT OF MEDIAN.—A disabled family whose income is between 90 and 99 percent of the median for the area shall be eligible to receive 33 percent of the amount calculated under paragraph (1).

''(D) INCOME MORE THAN 99 PERCENT OF MEDIAN.—A disabled family whose income is more than 99 percent of the median for the area shall not be eligible to receive assistance under this section.

''(c) INSPECTIONS AND CONTRACT CONDITIONS.—

''(1) IN GENERAL.—Each contract for the purchase of a dwelling unit to be assisted under this section shall—

''(A) provide for pre-purchase inspection of the dwelling unit by an independent professional; and

''(B) require that any cost of necessary repairs be paid by the seller.

''(2) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (*o*)(8)(A)(ii) of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)(8)(A)(ii)] for annual inspections shall not apply to dwelling units assisted under this section.

''(d) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

''(1) limit the term of assistance for a disabled family assisted under this section;

''(2) provide assistance for a disabled family for the entire term of a mortgage for a dwelling unit if the disabled family remains eligible for such assistance for such term; and

''(3) modify the requirements of this section as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

''(e) ASSISTANCE PAYMENTS SENT TO LENDER.—The Secretary shall remit assistance payments under this section directly to the mortgagee of the dwelling unit purchased by the disabled family receiving such assistance payments.

''(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this section shall not be subject to the requirements of the following provisions:

''(1) Subsection (c)(3)(B) of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(3)(B)].

''(2) Subsection (d)(1)(B)(i) of section 8 of the United States Housing Act of 1937.

''(3) Any other provisions of section 8 of the United States Housing Act of 1937 governing maximum amounts payable to owners and amounts payable by assisted families.

''(4) Any other provisions of section 8 of the United States Housing Act of 1937 concerning contracts between public housing agencies and owners.

''(5) Any other provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] that are inconsistent with the provisions of this section.

''(g) REVERSION TO RENTAL STATUS.—

''(1) NON-FHA MORTGAGES.—If a disabled family receiving assistance under this section defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the disabled family may not continue to receive rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] unless it complies with requirements established by the Secretary.

''(2) ALL MORTGAGES.—A disabled family receiving assistance under this section that defaults under a mortgage may not receive assistance under this section for occupancy of another dwelling unit owned by one or more members of the disabled family.

''(3) EXCEPTION.—This subsection shall not apply if the Secretary determines that the disabled family receiving assistance under this section defaulted under a mortgage due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency.

''(h) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2000], the Secretary shall issue regulations to implement this section. Such regulations may not prohibit any public housing agency providing tenant-based assistance on behalf of an eligible family under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] from participating in the pilot program under this section.

''(i) DEFINITION OF DISABLED FAMILY.—For the purposes of this section, the term 'disabled family' has the meaning given the term 'person with disabilities' in section 811(k)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(2)).''

DETERMINATION OF ADMINISTRATIVE FEES

Pub. L. 108–7, div. K, title II, [(5)], Feb. 20, 2003, 117 Stat. 485, which provided that the fee otherwise authorized under subsec. (q) of this section was to be determined in accordance with subsec. (q) as in effect immediately before Oct. 21, 1998, was from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 660.

Pub. L. 106–377, § 1(a)(1) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A–12.

Pub. L. 106–74, title II, Oct. 20, 1999, 113 Stat. 1056.

HOMEOWNERSHIP OPPORTUNITIES DEMONSTRATION PROGRAM

Pub. L. 105–276, title V, § 555(b), Oct. 21, 1998, 112 Stat. 2613, provided that:

''(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

''(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.''

MULTIFAMILY HOUSING ASSISTANCE

Subtitles A (§§ 511–524) and D (§§ 571–579) of title V of Pub. L. 105–65, as amended by Pub. L. 105–276, title V, §§ 549(c), 597(b), Oct. 21, 1998, 112 Stat. 2608, 2659; Pub. L. 106–74, title II, §§ 213(b), 219, title V, §§ 531(a)–(c), 534, 538(b), Oct. 20, 1999, 113 Stat. 1074, 1075, 1109–1116, 1120, 1123; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 107–116, title VI, §§ 611–614, 616(a)(1), (b), 621, 622(a), 623(a), 624, 625, Jan. 10, 2002, 115 Stat. 2222–2227, provided that:

''SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

''SEC. 511. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

''(2) as of the date of enactment of this Act [Oct. 27, 1997], it is estimated that—

''(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

''(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

''(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

''(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

''(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

''(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

''(7) it is estimated that—

''(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

''(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

''(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

''(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

''(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

''(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

''(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

''(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating

costs of these projects while retaining the low-income affordability and availability of this housing;

''(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

''(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

''(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this title [see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking], so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

''(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993 [Pub. L. 103–62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the purposes of this subtitle are—

''(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

''(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

''(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

''(4) to reduce the cost of insurance claims under the National Housing Act [12 U.S.C. 1701 et seq.] related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

''(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

''(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

''(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

''(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

''(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

''SEC. 512. DEFINITIONS.

''In this subtitle:

''(1) COMPARABLE PROPERTIES.—The term 'comparable properties' means properties in the same market areas, where practicable, that—

''(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

''(B) are not receiving project-based assistance.

''(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term 'eligible multifamily housing project' means a property consisting of more than 4 dwelling units—

''(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

''(B) that is covered in whole or in part by a contract for project-based assistance under—

''(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

''(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

''(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

''(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

''(v) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

''(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

''(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

''(C) financed by a mortgage insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.].

Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e), but does include a project described in section 524(e)(3). Notwithstanding any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.

''(3) EXPIRING CONTRACT.—The term 'expiring contract' means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

''(4) EXPIRATION DATE.—The term 'expiration date' means the date on which an expiring contract expires.

''(5) FAIR MARKET RENT.—The term 'fair market rent' means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

''(6) LOW-INCOME FAMILIES.—The term 'low-income families' has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

''(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term 'mortgage restructuring and rental assistance sufficiency plan' means the plan as provided under section 514.

''(8) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any private nonprofit organization that—

''(A) is organized under State or local laws;

''(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

''(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

''(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term 'portfolio restructuring agreement' means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

''(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term 'participating administrative entity' means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

''(11) PROJECT-BASED ASSISTANCE.—The term 'project-based assistance' means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

''(12) RENEWAL.—The term 'renewal' means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(14) STATE.—The term 'State' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704].

''(15) TENANT-BASED ASSISTANCE.—The term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

''(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

''(17) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

''(18) QUALIFIED MORTGAGEE.—The term 'qualified mortgagee' means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

''(A) is not suspended or debarred by the Secretary;

''(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

''(C) is not in default under any Government National Mortgage Association obligation.

''(19) OFFICE.—The term 'Office' means the Office of Multifamily Housing Assistance Restructuring established under section 571.

''SEC. 513. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

''(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

''(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], in order to—

''(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

''(B) address financially and physically troubled projects; and

''(C) correct management and ownership deficiencies.

''(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

''(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

''(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

''(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

''(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

''(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

''(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

''(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

''(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

''(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this title.

''(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

''(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

''(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

''(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

''(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

''(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

''(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and

''(F) meets other criteria, as determined by the Secretary.

''(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

''(A) provide the most timely, efficient, and cost-effective—

''(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

''(ii) administration of the section 8 project-based assistance contract, if applicable; and

''(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

''(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are

encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this title.

''(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

''(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

''(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

''(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

''(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

''(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

''(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

''(7) PRIVATE ENTITY REQUIREMENTS.—

''(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

''(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

''SEC. 514. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

''(a) IN GENERAL.—

''(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

''(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

''(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

''(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

''(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

''(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.

''(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

''(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

''(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

''(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

''(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

''(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

''(A) the Secretary; or

''(B) local housing codes or codes adopted by public housing agencies that—

''(i) meet or exceed housing quality standards established by the Secretary; and

''(ii) do not severely restrict housing choice;

''(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

''(A) contained in a legally enforceable document recorded in the appropriate records; and

''(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

''(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

''(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

''(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] because of the status of the prospective tenants as certificate and voucher holders.

''(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

''(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

''(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

''(A) the mortgage restructuring and rental assistance sufficiency plan;

''(B) any proposed transfer of the project; and

''(C) the rental assistance assessment plan pursuant to section 515(c).

''(3) FUNDING.—

''(A) IN GENERAL.—The Secretary shall make available not more than $10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years, from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners), for technical assistance for preservation of low-income housing for which project-based rental assistance is provided at below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5), from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

''(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] and the Multifamily Housing Property Disposition Reform Act of 1994 [Pub. L. 103–233, see Short Title of 1994 Amendment note set out under section 1701 of Title 12, Banks and Banking], or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

''(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

''(g) RENT LEVELS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

''(A) are equivalent to rents derived from comparable properties, if—

''(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

''(ii) the market rent determination is based on not less than 2 comparable properties; or

''(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to portfolio restructuring agreements, based on a finding of special need), if the participating administrative entity—

''(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

''(ii) follows the procedures under paragraph (3).

''(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

''(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

''(A) the debt service of the project;

''(B) the operating expenses of the project, as determined by the participating administrative entity, including—

''(i) contributions to adequate reserves;

''(ii) the costs of maintenance and necessary rehabilitation; and

''(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

''(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

''(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as deter-

mined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

''(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

''(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

''(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government) and the financing involves mortgage insurance under the National Housing Act [42 U.S.C. 1701 et seq.], such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing;

''(2) the project is a project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] or section 515 of the Housing Act of 1949 [42 U.S.C. 1485], or refinanced pursuant to section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note); or

''(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401].

''SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

''(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

''(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

''(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

''(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

''(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

''(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

''(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

''(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families; or

''(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

''(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

''(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

''(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

''(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

''(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

''(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

''(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

''(v) the long-term financial stability of the project;

''(vi) the ability of residents to make reasonable choices about their individual living situations;

''(vii) the quality of the neighborhood in which the tenants would reside; and

''(viii) the project's ability to compete in the marketplace.

''(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

''(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

''(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

''(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

''(4) ASSISTANCE THROUGH ENHANCED VOUCHERS.—In the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

''(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

''SEC. 516. PROHIBITION ON RESTRUCTURING.

''(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

''(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

''(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

''(2) material adverse financial or managerial actions or omissions include—

''(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

''(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], after receipt of notice and an opportunity to cure;

''(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

''(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

''(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

''(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

''(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

''(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

''(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

''(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or

''(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term 'owner' as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term 'purchaser' as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms 'affiliate of the owner' and 'affiliate of the purchaser' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

''(b) OPPORTUNITY TO DISPUTE FINDINGS.—

''(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

''(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

''(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

''(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

''(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

''(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

''(d) DISPLACED TENANTS.—

''(1) NOTICE TO CERTAIN RESIDENTS.—The Office shall notify any tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

''(2) ASSISTANCE AND MOVING EXPENSES.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

''(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

''SEC. 517. RESTRUCTURING TOOLS.

''(a) MORTGAGE RESTRUCTURING.—

''(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

''(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

''(B) a second mortgage that is in an amount equal to not more than the greater of—

''(i) the full or partial payment of claim made under this subtitle; or

''(ii) the difference between the restructured or new first mortgage and the indebtedness under

the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

''(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986 [26 U.S.C. 1274(d)]. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

''(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

''(4) The full amount of the second mortgage shall be immediately due and payable if—

''(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

''(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

''(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

''(5) The Secretary may modify the terms of the second mortgage, assign the second mortgage to the acquiring organization or agency, or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

''(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).

''(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include one or more of the following actions:

''(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act [12 U.S.C. 1735f–19(b)], as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

''(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act [12 U.S.C. 1701 et seq.], the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

''(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [Pub. L. 102–550, 12 U.S.C. 1707 note]. The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Accounts of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

''(4) CREDIT ENHANCEMENT.—Providing any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

''(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 [12 U.S.C. 1437f] for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

''(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

''(c) REHABILITATION NEEDS AND ADDITION OF SIGNIFICANT FEATURES.—

''(1) REHABILITATION NEEDS.—

''(A) IN GENERAL.—Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act [12 U.S.C. 1715z–1], as amended by section 531 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the

project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

''(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

''(2) ADDITION OF SIGNIFICANT FEATURES.—

''(A) AUTHORITY.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

''(B) FUNDING.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

''(C) LIMITATION ON OWNER CONTRIBUTION.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

''(D) APPLICABILITY.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001 [Jan. 10, 2002].

''(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

''(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections [sic] (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

''SEC. 518. MANAGEMENT STANDARDS.

''Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

''SEC. 519. MONITORING OF COMPLIANCE.

''(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

''(A) enforcement of the provisions of this subtitle; and

''(B) remedies for the breach of those provisions.

''(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

''(b) PERIODIC MONITORING.—

''(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

''(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

''(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

''(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

''SEC. 520. REPORTS TO CONGRESS.

''(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

''(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act [Oct. 27, 1997] and not less than annually thereafter, the Secretary shall submit reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of section 515(c)(2)(C).

''SEC. 521. GAO AUDIT AND REVIEW.

''(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this subtitle, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

''(b) REPORT.—

''(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

''(2) CONTENTS.—The report submitted under paragraph (1) shall include—

''(A) a description of the initial audit conducted under subsection (a); and

''(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

''SEC. 522. REGULATIONS.

''(a) RULEMAKING AND IMPLEMENTATION.—

''(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

''(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of: (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act [Oct. 27, 1997]; and (B) the 3-month period beginning upon the appointment of the Director under subtitle D.

''(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

''(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

''(i) State housing finance agencies and local housing agencies;

''(ii) other potential participating administering entities;

''(iii) tenants;

''(iv) owners and managers of eligible multifamily housing projects;

''(v) States and units of general local government; and

''(vi) qualified mortgagees; and

''(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

''(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 [Pub. L. 104–204, set out below] (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

''SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

''(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—[Amended this section.]

''(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—[Amended section 1735f–19 of Title 12, Banks and Banking.]

''(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—[Amended this section.]

''(d) SECTION 8 CONTRACT RENEWALS.—[Amended section 405(a) of Pub. L. 104–99, set out below.]

''(e) RENEWAL UPON REQUEST OF OWNER.—[Amended section 211 of Pub. L. 104–204, set out below.]

''(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—[Amended section 212 of Pub. L. 104–204, set out below.]

''SEC. 524. RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

''(a) IN GENERAL.—

''(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project (and notwithstanding section 8(v) of the United States Housing Act of 1937 [42 U.S.C. 1437f] for loan management assistance), the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage restructuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

''(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation under paragraphs (1) through (4) of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

''(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

''(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

''(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

''(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

''(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

''(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

''(iv) is not—

''(I) owned by a nonprofit entity;

''(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

''(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant's unit; and

''(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v)), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

''(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to such comparable market rents.

''(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

''(i) are not less than the existing rents under the terminated or expiring contract, as adjusted

by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

''(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iii) of subparagraph (D) that the project meets. Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (ii).

''(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

''(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

''(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnback rate for vouchers, or a lack of comparable rental housing; or

''(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

''(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS.—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

''(b) EXCEPTION RENTS.—

''(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

''(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

''(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses).

''(2) PROJECTS COVERED.—A multifamily housing project described in this paragraph is a multifamily housing project that—

''(A) is not an eligible multifamily housing project under section 512(2); or

''(B) is exempt from mortgage restructuring under this subtitle pursuant to section 514(h).

''(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

''(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

''(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

''(C) MARKET RENTS.—Comparable market rents for the market area.

''(c) RENT ADJUSTMENTS AFTER RENEWAL OF CONTRACT.—

''(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] pursuant to subsection (a), (b)(1), or (e)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

''(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

''(d) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION.—

''(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

''(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) ASSISTED DWELLING UNIT.—The term 'assisted dwelling unit' means a dwelling unit that—

''(i) is in a covered project; and

''(ii) is covered by rental assistance provided under the contract for project-based assistance for the covered project.

''(B) COVERED PROJECT.—The term 'covered project' means any housing that—

''(i) consists of more than four dwelling units;

''(ii) is covered in whole or in part by a contract for project-based assistance under—

''(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

''(II) the property disposition program under section 8(b) of the United States Housing Act of 1937;

''(III) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991);

''(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

''(V) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

''(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

''(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965,

which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

''(iii) is not housing for which residents are eligible for enhanced voucher assistance as provided, pursuant to the 'Preserving Existing Housing Investment' account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884) or any other subsequently enacted provision of law, in lieu of any benefits under section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113).

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

''(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

''(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 [42 U.S.C. 1437f] for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

''(2) DEMONSTRATION PROJECTS.—

''(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

''(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

''(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–285; 42 U.S.C. 1437f note);

''(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

''(iii) either of such sections, pursuant to any provision of this title [see Short Title of 1997 Amendment note set out under section 1701 of title 12].

''(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS.—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note) [see Codification note preceding section 4101 of Title 12, Banks and Banking] or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.

''(f) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section [Oct. 27, 1997] that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

''(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the extent such law or regulation applies to—

''(A) a State-financed multifamily housing project; or

''(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

''(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

''(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 [42 U.S.C. 1437f] that terminates or expires during fiscal year 2000 or thereafter.

''SEC. 525. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

''(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and estab-

lishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unassisted units in the same area as such dwelling units.

''(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

''(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

''(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

''(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.

''SUBTITLE D—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

''SEC. 571. ESTABLISHMENT OF OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING.

''There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Multifamily Housing Assistance Restructuring.

''SEC. 572. DIRECTOR.

''(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.

''(b) VACANCY.—A vacancy in the position of Director shall be filled by appointment in the manner provided under subsection (a). The President shall make such an appointment not later than 60 days after such position first becomes vacant.

''(c) DEPUTY DIRECTOR.—

''(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.

''(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (b).

''SEC. 573. DUTY AND AUTHORITY OF DIRECTOR.

''(a) DUTY.—The Secretary shall, acting through the Director, administer the program of mortgage and rental assistance restructuring for eligible multifamily housing projects under subtitle A. During the period before the Director is appointed, the Secretary may carry out such program.

''(b) AUTHORITY.—The Director is authorized to make such determinations, take such actions, issue such regulations, and perform such functions assigned to the Director under law as the Director determines necessary to carry out such functions, subject to the review and approval of the Secretary. The Director shall semiannually submit a report to the Assistant Secretary of the Department of Housing and Urban Development who is the Federal Housing Commissioner regarding the activities, determinations, and actions of the Director.

''(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office (but not to contractors, subcontractors, or consultants) any of the functions, powers, and duties of the Director, as the Director considers appropriate.

''(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or (b), the Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

''(2) REQUIREMENT.—If the Director determines at any time that the Secretary is taking or has taken any action that interferes with the ability of the Director to carry out the duties of the Director under this Act [probably means title V of Pub. L. 105–65, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking] or that affects the administration of the program under subtitle A of this Act in a manner that is inconsistent with the purposes of this Act, including any proposed action by the Director, in the discretion of the Director, that is overruled by the Secretary, the Director shall immediately report directly to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding such action. Notwithstanding subsection (a) or (b), any determination or report under this paragraph by the Director shall not be subject to prior review or approval of the Secretary.

''SEC. 574. PERSONNEL.

''(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

''(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Federal Deposit Insurance Corporation.

''(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

''(d) OUTSIDE EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''SEC. 575. BUDGET AND FINANCIAL REPORTS.

''(a) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Secretary shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

''(b) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Secretary shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.

''(c) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this section shall be included: (1) in the Budget of the United States in the appropriate form; and (2) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

''SEC. 576. LIMITATION ON SUBSEQUENT EMPLOYMENT.

''Neither the Director nor any former officer or employee of the Office who, while employed by the Office,

was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, may, during the 1-year period beginning on the date of separation from employment by the Office, accept compensation from any party (other than a Federal agency) having any financial interest in any mortgage restructuring and rental assistance sufficiency plan under subtitle A or comparable matter in which the Director or such officer or employee had direct participation or supervision.

''SEC. 577. AUDITS BY GAO.

''The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act [Oct. 27, 1997] and as appropriate thereafter.

''SEC. 578. OVERSIGHT BY FEDERAL HOUSING COMMISSIONER.

''All authority and responsibilities assigned under this subtitle to the Secretary shall be carried out through the Assistant Secretary of the Department of Housing and Urban Development who is the Federal Housing Commissioner.

''SEC. 579. TERMINATION.

''(a) REPEALS.—

''(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2006.

''(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

''(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2006.

''(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

''(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.''

[Pub. L. 107–116, title VI, § 616(a)(2), Jan. 10, 2002, 115 Stat. 2225, provided that: ''The amendment made by paragraph (1) of this subsection [amending section 514 of Pub. L. 105–65, set out above] is deemed to have taken effect on the date of the enactment of Public Law 106–74 [Oct. 20, 1999] (113 Stat. 1109).''']

[Pub. L. 107–116, title VI, § 622(b), Jan. 10, 2002, 115 Stat. 2227, provided that: ''The amendment made by subsection (a) [amending section 572(a) of Pub. L. 105–65, set out above] shall apply to the first Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development appointed after the date of the enactment of this Act [Jan. 10, 2002], and any such Director appointed thereafter.''']

[Pub. L. 107–116, title VI, § 623(b), Jan. 10, 2002, 115 Stat. 2227, provided that: ''The amendment made by subsection (a) [amending section 572(b) of Pub. L. 105–65, set out above] shall apply to any vacancy in the position of Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development which occurs or exists after the date of the enactment of this Act [Jan. 10, 2002].''']

[Pub. L. 105–276, title V, § 597(c), Oct. 21, 1998, 112 Stat. 2659, provided that: ''This section [amending section 524(a)(2) of Pub. L. 105–65, set out above] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''']

GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS

Section 532 of Pub. L. 105–65 provided that: ''Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act [Oct. 27, 1997], the Comptroller General of the United States shall submit a report to the Congress analyzing—

''(1) the housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], but which are not subject to a mortgage insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.];

''(2) how State and local housing finance agencies have benefited financially from the rental assistance program under section 8 of the United States Housing Act of 1937, including any benefits from fees, bond financings, and mortgage refinancings; and

''(3) the extent and effectiveness of State and local housing finance agencies oversight of the physical and financial management and condition of multifamily housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937.''

ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS

Section 202 of Pub. L. 104–204 provided that: ''Notwithstanding section 8(q) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)], as amended—

''(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

''(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

''(B) The base amount shall be the higher of—

''(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

''(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

''(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

''(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

''(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

''(4) The Secretary may decrease the fee for PHA-owned units.

''(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

''(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and only if, immediately before the effective date of this Act [Sept. 26, 1996], it was not administering a tenant-based assistance pro-

gram under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

''(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

''(3) extraordinary costs approved by the Secretary.''

Similar provisions were contained in the following prior appropriations Acts:

Pub. L. 104–99, title IV, § 403(b), Jan. 26, 1996, 110 Stat. 43.

Pub. L. 103–120, § 11(a), Oct. 27, 1993, 107 Stat. 1151.

CONTRACT RENEWALS

Section 211 of Pub. L. 104–204, as amended by Pub. L. 105–18, title II, § 10006, June 12, 1997, 111 Stat. 201; Pub. L. 105–65, title V, § 523(e), Oct. 27, 1997, 111 Stat. 1407; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675, provided that:

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'expiring contract' means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

''(2) the term 'family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

''(3) the term 'multifamily housing project' means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

''(4) the term 'owner' has the same meaning as in section 8(f) of the United States Housing Act of 1937;

''(5) the term 'project-based assistance' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

''(6) the term 'public agency' means a State housing finance agency, a local housing agency, or other agency with a public purpose and status;

''(7) the term 'Secretary' means the Secretary of Housing and Urban Development; and

''(8) the term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

''(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

''(1) IN GENERAL.—Notwithstanding section 405(a) of the Balanced Budget Downpayment Act, I [Pub. L. 104–99, set out below], upon the request of the owner of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to renew the expiring contract as project-based assistance for a period of not more than one year, at rent levels that are equal to those under the expiring contract as of the date on which the contract expires: *Provided*, That those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For an FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance, for a period of not more than one year, at rent levels that do not exceed 120 percent of the fair market rent.

''(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

''(A) for a period of not more than one year; and

''(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

''(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—Notwithstanding paragraph (1), for section 202 projects, section 515 projects, projects with contracts entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects, upon the expiration of a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

''(A) for a period of not more than one year; and

''(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

''(4) OTHER CONTRACTS.—

''(A) PARTICIPATION IN DEMONSTRATION.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act [set out below]. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

''(B) EFFECT OF MATERIAL ADVERSE ACTIONS AND OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary). The term 'owner', as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937 [42 U.S.C. 1437f(f)], also means an affiliate of the owner. The term 'affiliate of the owner' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner, is controlled by an owner, or is under common control with the owner. The term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial, or other interests of the owner.

''(C) TRANSFER OF PROPERTY.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

''(5) TENANT PROTECTIONS.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed.''

Pub. L. 104–120, § 2(a), Mar. 28, 1996, 110 Stat. 834, provided that: ''Notwithstanding section 405(b) of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 44) [set out below], at the request of the owner of any project assisted under section 8(e)(2) of the

United States Housing Act of 1937 [42 U.S.C. 1437f(e)(2)] (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels.''

Section 405(a), (b) of Pub. L. 104–99, as amended by Pub. L. 105–65, title V, § 523(d), Oct. 27, 1997, 111 Stat. 1407, provided that:

''(a) Notwithstanding part 24 of title 24 of the Code of Federal Regulations, for fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

''(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels.''

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

Section 212 of title II of Pub. L. 104–204, as amended by Pub. L. 105–65, title V, § 523(f), Oct. 27, 1997, 111 Stat. 1407, provided that:

''(a) IN GENERAL.—

''(1) REPEAL.—

''(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, § 210] of Pub. L. 104–134, formerly set out as a note below] is repealed.

''(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) [of] the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration program under this section through the end of fiscal year 1997.

''(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act [Sept. 26, 1996] under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

''(3) DEFINITIONS.—For purposes of this section—

''(A) the term 'demonstration program' means the program established under subsection (b);

''(B) the term 'expiring contract' means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

''(C) the term 'family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

''(D) the term 'multifamily housing project' means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

''(E) the term 'owner' has the same meaning as in section 8(f) of the United States Housing Act of 1937;

''(F) the term 'project-based assistance' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

''(G) the term 'Secretary' means the Secretary of Housing and Urban Development; and

''(H) the term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

''(b) DEMONSTRATION AUTHORITY.—

''(1) IN GENERAL.—Subject to the funding limitation in subsection (*l*), the Secretary shall administer a demonstration program with respect to multifamily projects—

''(A) whose owners agree to participate;

''(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

''(C) the mortgages of which are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

''(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

''(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

''(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

''(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

''(c) GOALS.—

''(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

''(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

''(B) minimizing the involuntary displacement of tenants;

''(C) taking into account housing market conditions;

''(D) encouraging responsible ownership and management of property;

''(E) minimizing any adverse income tax impact on property owners; and

''(F) minimizing any adverse impacts on residential neighborhoods and local communities.

''(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

''(d) PARTICIPATION ARRANGEMENTS.—

''(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

''(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other)

to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

''(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

''(A) public housing agencies;

''(B) financial institutions;

''(C) mortgage servicers;

''(D) nonprofit and for-profit housing organizations;

''(E) the Federal National Mortgage Association;

''(F) the Federal Home Loan Mortgage Corporation;

''(G) Federal Home Loan Banks; and

''(H) other State or local mortgage insurance companies or bank lending consortia.

''(e) LONG-TERM AFFORDABILITY.—

''(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

''(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

''(f) PROCEDURES.—

''(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee and the residents of the owner's intent to participate in the demonstration program.

''(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

''(g)(1) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h) or in paragraph (2).

''(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

''(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

''(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).

''(h) DEMONSTRATION ACTIONS.—

''(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (*l*), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

''(A) REMOVAL OF RESTRICTIONS.—

''(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

''(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to apply any accumulated residual receipts toward effecting the purposes of this section.

''(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

''(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

''(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary

may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] for purposes of any contract restructured or renewed under the demonstration program.

''(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

''(F) CREDIT ENHANCEMENT.—

''(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [12 U.S.C. 1707 note]. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

''(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

''(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (*l*).

''(G) MORTGAGE RESTRUCTURING.—

''(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

''(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (*l*).

''(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

''(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

''(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

''(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

''(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

''(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

''(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

''(*l*) FUNDING.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, §210] of Pub. L. 104–134, formerly set out as a note below], for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

''(m) REPORT TO CONGRESS.—

''(1) IN GENERAL.—

''(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

''(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

''(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

''(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

''(B) the Secretary's evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

''(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

''(D) the subsidy costs provided before and after restructuring;

''(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

''(F) the demonstration program's impact on the owners of the projects, including any tax consequences.

''(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

''(A) the required contents under paragraph (2); and

''(B) any findings and recommendations for legislative action.''

Section 101(e) [title II, §210] of title I of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–257, 1321–285; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat.

1327, which authorized the Secretary of Housing and Urban Development on and after Oct. 1, 1995, and before Oct. 1, 1997, to initiate a FHA multifamily demonstration program, was repealed by Pub. L. 104–204, title II, § 212(a)(1)(A), Sept. 26, 1996, 110 Stat. 2897.

PUBLIC HOUSING MOVING TO WORK DEMONSTRATION

Section 101(e) [title II, § 204] of Pub. L. 104–134, as amended by Pub. L. 105–276, title V, § 522(b)(3), Oct. 21, 1998, 112 Stat. 2564, provided that:

''(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

''(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 [42 U.S.C. 1437f] housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], modernization assistance provided under section 14 of such Act [42 U.S.C. 1437*l*], and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

''(c) APPLICATION.—An application to participate in the demonstration—

''(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g, 1437*l*];

''(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

''(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

''(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)];

''(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

''(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

''(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

''(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

''(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

''(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)], and other appropriate factors as determined by the Secretary.

''(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

''(1) Section 18 of the United States Housing Act of 1937 [42 U.S.C. 1437p] shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

''(2) Section 12 of such Act [42 U.S.C. 1437j] shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

''(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 [42 U.S.C. 1437f, 1437g, 1437*l*] by a public housing agency participating in the demonstration under this part [section] shall not be diminished by its participation.

''(g) RECORDS, REPORTS, AND AUDITS.—

''(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

''(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

''(A) document the use of funds made available under this section;

''(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

''(C) describe and analyze the effect of assisted activities in addressing the objectives of this part [section].

''(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

''(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

''(h) EVALUATION AND REPORT.—

''(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

''(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

''(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under

section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437*l*] for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

''(1) to provide, directly or by contract, training and technical assistance—

''(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

''(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

''(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

''(j) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g] (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

''(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

''(2) any reference to assistance under section 14 of the United States Housing Act of 1937 [former 42 U.S.C. 1437*l*] shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).''

PROHIBITION AGAINST PREFERENCES WITH RESPECT TO CERTAIN PROJECTS

Pub. L. 104–99, title IV, § 402(d)(4)(B), Jan. 26, 1996, 110 Stat. 42, provided that: ''Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall apply with respect to—

''(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as such section existed on the day before October 1, 1983); or

''(ii) projects financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990]).''

[Pub. L. 105–276, title V, § 514(c)(2), Oct. 21, 1998, 112 Stat. 2548, provided that: ''Notwithstanding any other provision of law (including subsection (f) of this section [set out as an Effective and Termination Dates of 1996 Amendments note under section 1437a of this title]), section 402(d)(4)(B) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99, set out above] (42 U.S.C. 1437a note) shall apply to fiscal year 1999 and thereafter.'']

[Section 402(d)(4)(B) of Pub. L. 104–99, set out above, effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as Effective and Termination Dates of 1996 Amendments notes under section 1437a of this title.]

COMMUNITY INVESTMENT DEMONSTRATION PROGRAM

Pub. L. 103–120, § 6, Oct. 27, 1993, 107 Stat. 1148, as amended by Pub. L. 104–316, title I, § 122(j), Oct. 19, 1996, 110 Stat. 3837, provided that:

''(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

''(b) FUNDING REQUIREMENTS.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

''(1) multifamily properties owned by the Department; or

''(2) multifamily properties securing mortgages held by the Department.

''(c) CONTRACT TERMS.—

''(1) IN GENERAL.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

''(A) provides assistance for a term of not less than 60 months and not greater than 180 months; and

''(B) provides for contract rents, to be determined by the Secretary, which shall not exceed contract rents permitted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], taking into consideration any costs for the construction, rehabilitation, or acquisition of the housing.

''(2) AMENDMENT TO SECTION 203.—[Amended section 1701z–11 of Title 12, Banks and Banking.]

''(d) LIMITATION.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e)—

''(A) determines that—

''(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

''(ii) any such expressions of interest are not likely to use all funding under this section; and

''(B) so informs the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

''(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary's determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

''(e) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

''(f) APPLICABILITY OF ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(d)], nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act [29 U.S.C. 1001 et seq.].

''(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

''(h) ESTABLISHMENT OF STANDARDS.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

''[(j) Redesignated (i).]

''(k) TERMINATION DATE.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998.''

ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS DURING FISCAL YEAR 1994

Pub. L. 103–120, § 11(a), Oct. 27, 1993, 107 Stat. 1151, provided that: ''Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)(1)], other applicable law, or any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under subsections (b) and (*o*) of section 8 of such Act during fiscal year 1994 shall be—

''(1) not less than a fee calculated in accordance with the fair market rents for Federal fiscal year 1993; or

''(2) not more than—

''(A) a fee calculated in accordance with section 8(q) of such Act, except that such fee shall not be in excess of 3.5 percent above the fee calculated in accordance with paragraph (1); or

''(B) to the extent approved in an appropriation Act, a fee calculated in accordance with such section 8(q).''

EFFECTIVENESS OF ASSISTANCE FOR PHA-OWNED UNITS

Section 150 of Pub. L. 102–550 provided that: ''The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.''

MOVING TO OPPORTUNITY FOR FAIR HOUSING

Section 152 of Pub. L. 102–550, as amended by Pub. L. 103–120, § 3, Oct. 27, 1993, 107 Stat. 1148, which directed Secretary of Housing and Urban Development to carry out demonstration program in eligible cities to provide tenant-based assistance to very low-income families with children to move out of areas of high concentrations of persons living in poverty to areas with low concentrations of such persons, required biennial report to Congress evaluating effectiveness and final report not later than Sept. 30, 2004, provided for increased funding under section 1437c(c) of this title to carry out demonstration, and authorized implementation by notice of requirements necessary to carry out program, was repealed by Pub. L. 105–276, title V, § 550(f), Oct. 21, 1998, 112 Stat. 2610.

DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS

Section 153 of Pub. L. 102–550, which directed Secretary of Housing and Urban Development, not later than 2 years after Oct. 28, 1992, to review and comment upon study prepared pursuant to section 558(3) of Pub. L. 101–625, formerly set out as a note below, to evaluate implementation and effects of existing demonstration and judicially mandated programs, to assess factors that might impede geographic dispersion of families receiving section 8 certificates and vouchers, to identify and implement administrative revisions that would enhance dispersion and tenant choice, and to submit report to Congress describing findings, actions taken, and recommendations, was repealed by Pub. L. 105–276, title V, § 582(a)(3), Oct. 21, 1998, 112 Stat. 2643.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(b) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

TERMINATION OF EXISTING HOUSING PROGRAMS

Except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under subsec. (e)(2) of this section except for funds allocated under such section for single room occupancy dwellings as authorized by subchapter IV (§ 11361 et seq.) of chapter 119 of this title, see section 12839(a)(4) of this title.

PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION

Section 522 of Pub. L. 101–625, as amended by Pub. L. 104–66, title I, § 1071(b), Dec. 21, 1995, 109 Stat. 720; Pub. L. 104–99, title IV, § 402(d)(6)(B), Jan. 26, 1996, 110 Stat. 43, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of promoting revitalization of troubled urban communities through provision of public housing in socioeconomically mixed settings, directed appointment of coordinating committees to develop implementation plans, set forth scope of program including provision of supportive services, required report to Congress evaluating program's effectiveness and including findings and recommendations, and provided for termination of the program 10 years after Nov. 28, 1990, was repealed by Pub. L. 105–276, title V, § 582(a)(10), Oct. 21, 1998, 112 Stat. 2644.

STUDY OF PUBLIC HOUSING FUNDING SYSTEM

Section 524 of Pub. L. 101–625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for operation, maintenance and modernization of public housing, which study was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this section and a review of results of study entitled ''Alternative Operating Subsidies Systems for the Public Housing Program'', with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.

STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING

Section 525 of Pub. L. 101–625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies, examining methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments on behalf of low income public housing tenants, and making specific assessments and to submit a report to Congress not later than 12 months after Nov. 28, 1990.

GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT

Section 526 of Pub. L. 101–625 directed Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under this chapter, and submit a report to Congress regarding the findings and conclusions of the study not later than 12 months after Nov. 28, 1990.

PREFERENCE FOR NEW CONSTRUCTION UNDER THIS SECTION

Section 545(c) of Pub. L. 101–625, as amended by Pub. L. 104–99, title IV, § 402(d)(4)(A), Jan. 26, 1996, 110 Stat. 42, which provided that, with respect to housing constructed or substantially rehabilitated pursuant to assistance provided under subsec. (b)(2) of this section, as such provisions existed before Oct. 1, 1983, and projects financed under section 1701q of Title 12, Banks and Banking, notwithstanding tenant selection criteria under contract between Secretary and owner pursuant to first sentence of such section, for at least 70 percent of units becoming available, tenant selection criteria

for such housing was to give preference to families occupying substandard housing (including homeless families and those living in shelters), paying more than 50 percent of family income for rent, or involuntarily displaced, and system of local preferences established under subsec. (d)(1)(A)(ii) of this section by public housing agency was to apply to remaining units that became available, to extent that such preferences were applicable with respect to tenant eligibility limitations, was repealed by Pub. L. 105–276, title V, § 514(c)(1), Oct. 21, 1998, 112 Stat. 2548.

DOCUMENTATION OF EXCESSIVE RENT BURDENS

Section 550(b) of Pub. L. 101–625 provided that:

''(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which data shall include the share of family income paid toward rent.

''(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act [42 U.S.C. 1437a(a)(1)]. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

''(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.''

[For termination, effective May 15, 2000, of reporting provisions in section 550(b)(2) of Pub. L. 101–625, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 16 on page 103 of House Document No. 103–7.]

INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS

Section 555 of Pub. L. 101–625 provided that: ''Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.''

GAO STUDY REGARDING FAIR MARKET RENT CALCULATION

Section 558 of Pub. L. 101–625 directed Comptroller General to conduct a study to examine fair market rentals under subsec. (c)(1) of this section which are wholly contained within such market areas and submit a report to Congress not later than 18 months after Nov. 28, 1990, regarding findings and conclusions.

STUDY OF UTILIZATION RATES

Section 559 of Pub. L. 101–625 directed Secretary of Housing and Urban Development to conduct a study of reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available for such areas under this section and submit a report to Congress concerning this study not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM

Section 561 of Pub. L. 101–625 directed Secretary of Housing and Urban Development to conduct a study to determine feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under subsec. (*o*) of this section and submit a report to Congress regarding findings and conclusions not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

STUDY OF PRIVATE NONPROFIT INITIATIVES

Section 582 of Pub. L. 101–625 directed Secretary of Housing and Urban Development to conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded, with particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development, and submit a report to Congress regarding findings not later than 1-year after Nov. 28, 1990.

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS

Section 958 of Pub. L. 101–625, which directed Secretary of Housing and Urban Development to provide preferences for housing assistance programs to native Hawaiians in subsec. (a), described assistance programs available in subsec. (b), authorized Secretary to provide mortgage insurance in certain situations in subsec. (c), and defined pertinent terms in subsec. (d), was repealed by Pub. L. 102–238, § 5(b), Dec. 17, 1991, 105 Stat. 1910.

AUTHORIZATION FOR PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY STATE OF HAWAII UNDER ACT OF JULY 9, 1921

Section 962 of Pub. L. 101–625, as added by Pub. L. 102–238, § 5(a), Dec. 17, 1991, 105 Stat. 1909, provided that:

''(a) ASSISTANCE AUTHORIZED.—The Secretary of Housing and Urban Development is authorized to provide assistance, under any housing assistance program administered by the Secretary, to the State of Hawaii, for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108) [formerly 48 U.S.C. 691–718].

''(b) MORTGAGE INSURANCE.—

''(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act [see Short Title note set out under section 12701 of this title], or the National Housing Act [12 U.S.C. 1701 et seq.], including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the provisions of the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

''(A) is the mortgagor or co-mortgagor;

''(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

''(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

''(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108).''

ANNUAL ADJUSTMENT FACTORS FOR RENTS UNDER LOWER-INCOME HOUSING ASSISTANCE PROGRAM

Section 801(a), (b), (d), (e) of Pub. L. 101–235 provided that:

''(a) EFFECT OF PRIOR COMPARABILITY STUDIES.—

''(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)]—

''(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

''(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, 'debt service' shall include interest, principal, and mortgage insurance premium if any.

''(2) APPLICABILITY.—

''(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

''(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act [Dec. 15, 1989] that is final and not appealable (including any settlement agreement).

''(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

''(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

''(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)], or

''(B) calculated in accordance with the first sentence of subsection (a)(1).

''(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

''(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section], including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 15, 1989].''

PROHIBITION OF REDUCTION OF CONTRACT RENTS; BUDGET COMPLIANCE

Section 1004(b) of Pub. L. 100–628 provided that: ''During fiscal year 1989, the amendment made by subsection (a)(2) [amending this section] shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) [2 U.S.C. 909], to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.''

PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE; IMPLEMENTATION OF PROGRAM

Section 1005(a) of Pub. L. 100–628 provided that: ''To implement the amendment made by section 148 of the Housing and Community Development Act of 1987 [Pub. L. 100–242, see 1988 Amendment note above], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988]. Until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2).''

PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE IN NEW CONSTRUCTION; REGULATIONS IMPLEMENTING PROGRAM

Section 1005(b)(2) of Pub. L. 100–628 provided that: ''To implement the amendments made by this subsection [amending this section], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 90 days after the date of the enactment of this Act [Nov. 7, 1988].''

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

Section 1012 of Pub. L. 100–628, as amended by Pub. L. 102–273, § 2(a), (c)(1), Apr. 21, 1992, 106 Stat. 113; Pub. L. 102–550, title I, § 163, Oct. 28, 1992, 106 Stat. 3722, provided that:

''(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

''(1) was—

''(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]; or

''(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

''(2) is being refinanced.

''(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

''(c) APPLICABILITY AND BUDGET COMPLIANCE.—

''(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992 [Oct. 28, 1992], subject to the provisions of paragraph (2).

''(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.''

[Section 2(b) of Pub. L. 102–273 provided that: ''The amendments made by subsection (a) [amending section 1012 of Pub. L. 100–628, set out above] shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992.'']

PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION

Section 126 of Pub. L. 100–242, which directed Secretary of Housing and Urban Development to carry out program in 11 public housing agencies to demonstrate effectiveness of providing services to ensure transition of public housing residents to private housing, set forth requirements of program, and required interim report to Congress not later than 2 years after Feb. 5, 1988, and final report not later than 60 days after termination of program 7 years after such date, was repealed by Pub. L. 105–276, title V, § 582(a)(8), Oct. 21, 1998, 112 Stat. 2644.

NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS

Section 183(c) of Pub. L. 100–242, which prohibited owner of subsidized project to refuse to lease dwelling unit to holder of certificate of eligibility or voucher under this section, where proximate cause of refusal was status of prospective tenant as holder of such certificate or voucher, was repealed by Pub. L. 105–276, title V, § 582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

WITHDRAWAL BY OWNERS, DEVELOPERS, AND SPONSORS FROM PROGRAMS UNDER THIS SECTION; SURVEY AND DETERMINATION OF NUMBER; NOTIFICATION OF RENT INCREASES; REPORT TO CONGRESS; REGULATIONS TO PREVENT CONFLICT OF INTEREST ON THE PART OF FEDERAL, STATE, AND LOCAL OFFICIALS; RECOVERY OF LEGAL EXPENSES; CONTENTS OF ANNUAL REPORT

Section 326(b)–(d) of Pub. L. 97–35, as amended by Pub. L. 102–550, title I, § 129(a), Oct. 28, 1992, 106 Stat. 3711; Pub. L. 105–276, title V, § 582(a)(4), Oct. 21, 1998, 112 Stat. 2643, provided that:

''(b)[(1) Repealed. Pub. L. 105–276, title V, § 582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

''(2) Not later than one year after the date of the enactment of this Act [Aug. 13, 1981], the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

''[(c) Repealed. Pub. L. 105–276, title V, § 582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

''(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

''(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

''(A) 50 percent of the amount actually collected, or

''(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

''(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

''(3) RECOVERY.—Amounts may be recovered under this paragraph—

''(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

''(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)].''

[Section 129(b) of Pub. L. 102–550, provided that: ''Subsection (a) [amending section 326(d) of Pub. L. 97–35, set out above] shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act [Oct. 28, 1992].''

STUDY BY SECRETARY CONCERNING FEASIBILITY OF MINIMUM RENT PAYMENT REQUIREMENTS

Section 212 of Pub. L. 96–153 directed the Secretary of Housing and Urban Development to conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under this chapter, and to submit a report to the Congress containing the findings and conclusions of such study not later than ten days after the Budget for fiscal year 1981 is transmitted pursuant to section 11 of former Title 31, Money and Finance, and directed the Secretary of Housing and Urban Development to conduct a study to provide detailed comparisons between the rents paid by tenants occupying low-income housing assisted under this chapter and the rents paid by tenants at the same income level who are not in assisted housing and to transmit a report on such study to the Congress not later than Mar. 1, 1980.

STUDY OF ALTERNATIVE MEANS OF ENCOURAGING THE DEVELOPMENT OF HOUSING

Section 208 of Pub. L. 95–557 directed that Secretary of Housing and Urban Development conduct a study for purpose of examining alternative means of encouraging development of housing to be assisted under this section for occupancy by large families which reside in areas with a low-vacancy rate in rental housing and report to Congress no later than one year after Oct. 31, 1978, for purpose of providing legislative recommendations with respect to this study.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Section 319(b) of Pub. L. 93–383, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Act [section 1715*l*(d)(3) of Title 12, Banks and Banking] and issued by a public agency as mortgagor in

connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [this section], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [chapter 1 of Title 26, Internal Revenue Code].''

RENTAL OR INCOME CONTRIBUTIONS; USE OF SPECIAL SCHEDULES OF REQUIRED PAYMENTS FOR PARTICIPANTS IN MUTUAL HELP PROJECTS CONTRIBUTING LABOR, ETC.

Section 203 of Pub. L. 93–383 provided that: ''The rental or income contribution provisions of the United States Housing Act of 1937 [sections 1437 to 1437j of this title], as amended by section 201 of this Act, shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land, or materials to the development of such projects.''

§ 1437g. Public housing Capital and Operating Funds

(a) Merger into Capital Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 1437*l* of this title before October 1, 1999, shall be merged into the Capital Fund established under subsection (d) of this section.

(b) Merger into Operating Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under this section before October 1, 1999, shall be merged into the Operating Fund established under subsection (e) of this section.

(c) Allocation amount

(1) In general

For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds[1] for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2) of this section—

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2) of this section; and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2) of this section.

(2) Funding

There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) Capital Fund

For allocations of assistance from the Capital Fund, $3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(B) Operating Fund

For allocations of assistance from the Operating Fund, $2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

(d) Capital Fund

(1) In general

The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents;

(J) homeownership activities, including programs under section 1437z–4 of this title;

(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.

(2) Formula

The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and re-

[1] So in original. Probably should be ''Fund''.

construction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 1437d(j) of this title; and

(F) any other factors that the Secretary determines to be appropriate.

(3) Conditions on use for development and modernization

(A) Development

Except as otherwise provided in this chapter, any public housing developed using amounts provided under this subsection, or under section 1437*l* of this title as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) Modernization

Except as otherwise provided in this chapter, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 1437*l* of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) Applicability of latest expiration date

Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) Operating Fund

(1) In general

The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 1437d(j)(6) of this title by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

(B) activities to ensure a program of routine preventative maintenance;

(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management and policymaking of public housing by public housing residents;

(F) the costs of insurance;

(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

(H) the costs of administering a public housing work program under section 1437j of this title, including the costs of any related insurance needs;

(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish;

(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate; and

(K) the costs of operating computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E) of this section, and of activities related to that initiative.

(2) Formula

(A) In general

The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency

provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 1437u(d)(2) of this title for families participating in a family self-sufficiency program of the agency under such section 1437u of this title; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) Incentive to increase certain rental income

The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) Treatment of savings

(i) In general

The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(ii) Third party contracts

Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

(iii) Term of contract

The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

(3) Condition on use

No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this chapter.

(f) Negotiated rulemaking procedure

The formulas under subsections (d)(2) and (e)(2) of this section shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

(g) Limitations on use of funds

(1) Flexibility for Capital Fund amounts

Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) of this section for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(2) Full flexibility for small PHAs

Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 1437d(j)(2) of this title as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1) of this section, regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on October 21, 1998.

(3) Limitation on new construction

(A) In general

Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) Exception regarding use of assistance

A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) of this section shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) Exception regarding formulas

Subject to reasonable limitations set by the Secretary, the formulas established

under subsections (d)(2) and (e)(2) of this section may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 1437f(*o*) of this title for the same period of time.

(h) Technical assistance

To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 1437d(j) of this title, to assist such agencies from being so designated; and

(B) designated as troubled under section 1437d(j) of this title, to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance;

(7) clearinghouse services in furtherance of the goals and activities of this subsection; and

(8) assistance in connection with the establishment and operation of computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E) of this section.

As used in this subsection, the terms ''training'' and ''technical assistance'' shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) Eligibility of units acquired from proceeds of sales under demolition or disposition plan

If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 1437z–4 of this title to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) Penalty for slow expenditure of capital funds

(1) Obligation of amounts

Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) Extension of time period for obligation

The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) Effect of failure to comply

(A) Prohibition of new assistance

A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) Withholding of assistance

During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the

public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) Redistribution

The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 1437d(j) of this title to be high-performing.

(4) Exception to obligation requirements

(A) In general

Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) Prior fiscal years

Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) Expenditure of amounts

(A) In general

A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) Enforcement

The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) Right of recapture

Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(k) Emergency reserve and use of amounts

(1) Set-asides

In each fiscal year after fiscal year 1999, the Secretary shall set aside, for use in accordance with this subsection, not more than 2 percent of the total amount made available to carry out this section for such fiscal year. In addition to amounts set aside under the preceding sentence, in each fiscal year the Secretary may set from the total amount made available to carry out this section for such fiscal year not more than $20,000,000 for the Operation Safe Home program administered by the Office of the Inspector General of the Department of Housing and Urban Development, for law enforcement efforts to combat violent crime on or near the premises of public and federally assisted housing.

(2) Use of funds

Amounts set aside under paragraph (1) shall be available to the Secretary for use for assistance, as provided in paragraph (3), in connection with—

(A) emergencies and other disasters; and

(C)[2] housing needs resulting from any settlement of litigation; and

(3) Eligible uses

In carrying out this subsection, the Secretary may use amounts set aside under this subsection to provide—

(A) assistance for any eligible use under the Operating Fund or the Capital Fund established by this section; or

(B) tenant-based assistance in accordance with section 1437f of this title.

(4) Limitation

With respect to any fiscal year, the Secretary may carry over not more than a total of $25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (2) during the succeeding fiscal year.

(5) Publication

The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other than disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

(*l*) Treatment of nonrental income

A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(m) Provision of only capital or operating assistance

(1) Authority

In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) Exemptions

In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3) of this section, as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 [42 U.S.C. 1437f] requirements applicable, as appropriate, by regulation.

[2] So in original. No subpar. (B) has been enacted.

(n) Treatment of public housing

(1) Repealed. Pub. L. 108–7, div. K, title II, §212(a), Feb. 20, 2003, 117 Stat. 503

(2) Reduction of asthma incidence

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding[3] $500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this subchapter.

(3) Services for elderly residents

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than $600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) Effective date

This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

(Sept. 1, 1937, ch. 896, title I, §9, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 666; amended Pub. L. 94–375, §2(c), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–24, title I, §101(b), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, §201(f), Oct. 12, 1977, 91 Stat. 1129; Pub. L. 95–557, title II, §206(g), Oct. 31, 1978, 92 Stat. 2093; Pub. L. 96–153, title II, §§201(c), 207, 211(a), Dec. 21, 1979, 93 Stat. 1106, 1109, 1110; Pub. L. 96–399, title II, §201(b), (d), Oct. 8, 1980, 94 Stat. 1625; Pub. L. 97–35, title III, §§321(d), 322(c), Aug. 13, 1981, 95 Stat. 399, 402; Pub. L. 98–181, title II, §212, Nov. 30, 1983, 97 Stat. 1184; Pub. L. 99–272, title III, §3003, Apr. 7, 1986, 100 Stat. 102; Pub. L. 100–242, title I, §§112(b)(4), 118, Feb. 5, 1988, 101 Stat. 1824, 1828; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §§507, 572(2), title VIII, §802(p), Nov. 28, 1990, 104 Stat. 4186, 4236, 4317; Pub. L. 102–550, title I, §114, title VI, §673, Oct. 28, 1992, 106 Stat. 3691, 3827; Pub. L. 103–233, title III, §304, Apr. 11, 1994, 108 Stat. 370; Pub. L. 104–134, title I, §101(e) [title II, §218], Apr. 26, 1996, 110 Stat. 1321–257, 1321–290; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–330, title V, §501(b)(5), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title II, §210, title V, §519(a), Oct. 21, 1998, 112 Stat. 2485, 2551; Pub. L. 106–377, §1(a)(1) [title II, §214(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A–27; Pub. L. 108–7, div. K, title II, §212(a), Feb. 20, 2003, 117 Stat. 503; Pub. L. 109–58, title I, §151, Aug. 8, 2005, 119 Stat. 648.)

[3] So in original.

REFERENCES IN TEXT

The Quality Housing and Work Responsibility Act of 1998, referred to in subsecs. (a) and (b), is title V of Pub. L. 105–276, Oct. 21, 1998, 112 Stat. 2518. Section 503(a) of the Act is set out as an Effective Date of 1998 Amendment note under section 1437 of this title. Section 519(e) of the Act is set out as a note below. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1437 of this title and Tables.

Section 1437*l* of this title, referred to in subsecs. (a) and (d)(3)(A), (B), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

PRIOR PROVISIONS

A prior section 9 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized loans for low-rent housing and slum clearance projects and was classified to section 1409 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1437b of this title.

AMENDMENTS

2005—Subsec. (d)(1)(K), (L). Pub. L. 109–58, §151(1), added subpars. (K) and (L).

Subsec. (e)(2)(C). Pub. L. 109–58, §151(2), designated existing provisions as cl. (i), inserted heading, and added cls. (ii) and (iii).

2003—Subsec. (n)(1). Pub. L. 108–7 struck out par. (1) which related to treatment of certain covered locally developed public housing units as eligible public housing units.

2000—Subsec. (d)(1)(E). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(1)], inserted before semicolon ", including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources".

Subsec. (e)(1)(K). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(2)], added subpar. (K).

Subsec. (h)(8). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(3)], added par. (8).

1998—Pub. L. 105–276, §519(a), amended section generally, substituting present provisions for provisions which had: in subsec. (a), authorized annual contributions for operation of low-income housing, and provided for determination of the amounts and use of those contributions, contract authorization, standards for payments, necessity of contribution contracts, performance funding system, and audits; in subsec. (b), set forth limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions; in subsec. (c), authorized appropriations for fiscal years 1993 and 1994; in subsec. (d), required distribution of remaining appropriated funds to projects incurring excessive costs; and in subsec. (e), set forth time of payment of assistance to public housing agency.

Subsec. (a)(3)(A). Pub. L. 105–276, §210, inserted after third sentence "Notwithstanding the preceding sentences, the Secretary may revise the performance funding system in a manner that takes into account equity among public housing agencies and that includes appropriate incentives for sound management." and, in last sentence, inserted ", or any substantial change under the preceding sentence," after "vacant public housing units".

1996—Subsec. (a)(1)(A). Pub. L. 104–330, in second sentence, inserted ''and'' after comma at end of cl. (i), struck out '', and'' after ''reserve funds'' in cl. (ii), and struck out cl. (iii) which read as follows: ''with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this chapter, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 1437c of this title and until such time as the project is occupied''.

Subsec. (a)(3)(B)(i). Pub. L. 104–134 struck out ''for a period not to exceed 6 years'' after ''with the public housing agency''.

1994—Subsec. (a)(4). Pub. L. 103–233 added par. (4).

1992—Subsec. (a)(1)(B). Pub. L. 102–550, § 673, designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, substituted ''this clause'' for ''this subparagraph'', inserted reference to section 8011 of this title and a period after ''section 8013 of this title'', and added cl. (ii).

Subsec. (a)(3)(A). Pub. L. 102–550, § 114(b), inserted at end ''Notwithstanding sections 583(a) and 585(a) of title 5 (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.''

Subsec. (a)(3)(B)(i). Pub. L. 102–550, § 114(c), inserted before semicolon at end '', and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years''.

Subsec. (c). Pub. L. 102–550, § 114(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''There are authorized to be appropriated for purposes of providing annual contributions under this section $2,000,000,000 for fiscal year 1991 and $2,086,000,000 in fiscal year 1992.''

1990—Subsec. (a)(1). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

Pub. L. 101–625, § 507(b)(1), designated existing provisions as subpar. (A), redesignated former cls. (A) to (C) as cls. (i) to (iii), respectively, and added subpar. (B).

Subsec. (a)(2). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

Subsec. (a)(3)(A). Pub. L. 101–625, § 507(b)(2), inserted after first comma ''(except for payments under paragraph (1)(B))''.

Subsec. (a)(3)(B)(v). Pub. L. 101–625, § 802(p), added cl. (v).

Subsec. (c). Pub. L. 101–625, § 507(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''There are authorized to be appropriated for purposes of providing annual contributions under this section $1,500,000,000 for fiscal year 1988 and $1,530,000,000 for fiscal year 1989.''

Subsec. (d). Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing''.

1988—Subsec. (a)(1). Pub. L. 100–242, § 118(a)(1), struck out last sentence directing Secretary to establish standards for costs of operation and reasonable projections of income, for purposes of making payments under this section.

Pub. L. 100–242, § 118(d), inserted at end ''If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition.''

Subsec. (a)(2). Pub. L. 100–242, § 112(b)(4), substituted ''one developed pursuant to a contributions contract authorized by section 1437c'' for ''being assisted by an annual contributions contract authorized by section 1437c(c)'' and ''any such'' for ''any such annual''.

Subsec. (a)(3). Pub. L. 100–242, § 118(a)(2), added par. (3).

Subsec. (c). Pub. L. 100–242, § 118(b), amended subsec. (c) generally, substituting provisions authorizing appropriations under this section for fiscal years 1988 and 1989 for provisions authorizing appropriations for the period beginning on or after July 1, 1975, through the period beginning on or after Oct. 1, 1985.

Subsec. (e). Pub. L. 100–242, § 118(c), added subsec. (e).

1986—Subsec. (c). Pub. L. 99–272 struck out ''and by'' after ''1983,'' and inserted '', and not to exceed $1,279,000,000 on or after October 1, 1985'' after ''1984''.

1983—Subsec. (c). Pub. L. 98–181 substituted ''October 1, 1980, and'' for ''October 1, 1980,'' and authorized appropriations of not to exceed $1,500,000,000 on or after Oct. 1, 1983, and of such sums as may be necessary on or after Oct. 1, 1984.

1981—Subsec. (a). Pub. L. 97–35, § 322(c), substituted reference to lower income for reference to low-income wherever appearing.

Subsec. (c). Pub. L. 97–35, § 321(d), inserted provisions respecting authorization on or after Oct. 1, 1981.

Subsec. (d). Pub. L. 97–35, § 322(c), substituted reference to lower income for reference to low-income.

1980—Subsec. (a)(1)(C). Pub. L. 96–399, § 201(d), added cl. (C).

Subsec. (c). Pub. L. 96–399, § 201(b), authorized appropriation of not to exceed $826,000,000 on or after Oct. 1, 1980.

1979—Subsec. (a). Pub. L. 96–153, § 211(a), designated existing provisions as par. (1) and cls. (1) and (2) thereof as (A) and (B), inserted provisions that such contract shall provide that no disposition of low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary, and added par. (2).

Subsec. (c). Pub. L. 96–153, § 201(c), authorized appropriation for annual contributions of $741,500,000 on or after Oct. 1, 1979.

Subsec. (d). Pub. L. 96–153, § 207, added subsec. (d).

1978—Subsec. (c). Pub. L. 95–557 inserted ''and not to exceed $729,000,000 on or after October 1, 1978''.

1977—Subsec. (c). Pub. L. 95–128 authorized appropriation for annual contributions of $685,000,000 on or after Oct. 1, 1977.

Pub. L. 95–24 substituted ''and not to exceed $595,600,000 on or after October 1, 1976'' for ''and not to exceed $576,000,000 on or after October 1, 1976''.

1976—Subsec. (c). Pub. L. 94–375 substituted provision authorizing appropriations for annual contributions not to exceed $535,000,000 on or after July 1, 1975, not to exceed $80,000,000 on or after July 1, 1976, and not to exceed $576,000,000 on or after October 1, 1976 for provision which authorized annual contributions for contracts entered into on or after July 1, 1974 of not more than $500,000,000 per annum, which amount was to be increased by $60,000,000 on July 1, 1975.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–7, div. K, title II, § 212(c), Feb. 20, 2003, 117 Stat. 504, provided that: ''The amendment made by subsection (a) [amending this section] shall be deemed to have taken effect on October 1, 1998.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as other-

wise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, §519(e)–(g), Oct. 21, 1998, 112 Stat. 2561, 2562, provided that:

''(e) TRANSITIONAL PROVISION OF ASSISTANCE.—

''(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437g, 1437*l*], as those sections existed immediately before the enactment of this Act [Oct. 21, 1998] (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act [see Tables for classification]).

''(2) QUALIFICATIONS.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by subsection (a) of this section)—

''(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section [42 U.S.C. 1437a note], the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g];

''(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(5)(G)] (as in effect immediately before the enactment of this Act [Oct. 21, 1998]), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g]; and

''(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)(1)(A), (B), (C)], the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g].

''(f) EFFECTIVE DATE OF OPERATING FORMULA.—Notwithstanding the effective date under section 503(a) [42 U.S.C. 1437 note], the Secretary may extend the effective date of the formula under section 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(e)(2)] (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula.

''(g) EFFECTIVE DATE.—Subsections (d) [42 U.S.C. 1437a note], (e), and (f) shall take effect upon the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 802(p) of Pub. L. 101–625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101–507, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of subsec. (c) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS

Pub. L. 108–199, div. G, title II, §222, Jan. 23, 2004, 118 Stat. 398, provided that: ''The Secretary of Housing and Urban Development shall conduct negotiated rulemaking with representatives from interested parties for purposes of any changes to the formula governing the Public Housing Operating Fund. A final rule shall be issued no later than July 1, 2004.''

Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 487, provided in part: ''That the Secretary shall issue final regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), not later than August 1, 2003''.

PAYMENTS FOR COSTS OF OPERATION AND MANAGEMENT OF PUBLIC HOUSING PROHIBITED

Pub. L. 108–447, div. I, title II, Dec. 8, 2004, 118 Stat. 3298, provided in part: ''That for fiscal year 2006 and all fiscal years thereafter, the Secretary shall provide assistance under this heading [PUBLIC HOUSING OPERATING FUND] to public housing agencies on a calendar year basis: *Provided further*, That, in fiscal year 2005 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act''.

Similar provisions were contained in the following appropriation acts:

Pub. L. 109–115, div. A, title III, Nov. 30, 2005, 119 Stat. 2444.

Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 375.

Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 488.

FUNDING OF COVERED LOCALLY DEVELOPED PUBLIC HOUSING UNITS PROHIBITED

Pub. L. 108–7, div. K, title II, §207, Feb. 20, 2003, 117 Stat. 502, provided that: ''Notwithstanding any other provision of law, no funds in this Act or in any other Act in any fiscal year, including all future and prior fiscal years, may be used hereafter by the Secretary of Housing and Urban Development to provide any assistance or other funds for housing units defined in section 9(n) of the United States Housing Act of 1937 [42 U.S.C. 1437g(n)] (as in effect immediately before the enact-

ment of this Act [Feb. 20, 2003]) as 'covered locally developed public housing units'. The States of New York and Massachusetts shall reimburse any funds already made available under any appropriations Act for these units to the Secretary of Housing and Urban Development for reallocation to public housing agencies: *Provided*, That, if either State fails to make such reimbursement within 12 months, the Secretary shall recapture such funds through reductions from the amounts allocated to each State under section 106 of the Housing and Community Development Act of 1974 [42 U.S.C. 5306].''

APPLICABILITY OF PENALTIES FOR SLOW EXPENDITURE OF CAPITAL FUNDS

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 660, provided in part: ''That, hereafter, notwithstanding any other provision of law or any failure of the Secretary of Housing and Urban Development to issue regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), such section is deemed to have taken effect on October 1, 1998, and, except as otherwise provided in this heading [''PUBLIC HOUSING CAPITAL FUND (INCLUDING TRANSFER OF FUNDS)''], shall apply to all assistance made available under this same heading on or after such date''.

COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM

Section 508 of Pub. L. 101–625 provided that: ''In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.''

ENERGY EFFICIENCY DEMONSTRATION

Section 523 of Pub. L. 101–625, which directed Secretary of Housing and Urban Development to carry out demonstration program to encourage use of private energy service companies and demonstrate opportunities for energy cost reduction through energy services contracts, and to report findings and recommendations to Congress as soon as practicable after expiration of 1-year period beginning on Nov. 28, 1990, was repealed by Pub. L. 105–276, title V, § 582(a)(11), Oct. 21, 1998, 112 Stat. 2644.

§ 1437h. Implementation of provisions by Secretary

(a) Preparation and submission of annual budget program; maintenance of accounts; audit by Government Accountability Office

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain an integral set of accounts which may be audited by the Government Accountability Office as provided by chapter 91 of title 31.

(b) Availability of receipts and assets

All receipts and assets of the Secretary under this chapter shall be available for the purposes of this chapter until expended.

(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services

The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this chapter, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

(Sept. 1, 1937, ch. 896, title I, § 10, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 666; amended Pub. L. 98–479, title II, § 203(b)(2), Oct. 17, 1984, 98 Stat. 2229; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 104–316, title I, § 122(k), Oct. 19, 1996, 110 Stat. 3837; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 10 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized annual contributions in assistance of low rentals for housing projects and was classified to section 1410 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1437c of this title.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Subsec. (a)(2). Pub. L. 104–316 substituted ''maintain an integral set of accounts which may be audited by the General Accounting Office as provided by chapter 91 of title 31.'' for ''maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by chapter 91 of title 31, and no other audit shall be required.''

1984—Subsec. (a)(1), (2). Pub. L. 98–479 substituted ''chapter 91 of title 31'' for ''the Government Corporations Control Act, as amended''.

§ 1437i. Obligations of public housing agencies; contestability; full faith and credit of United States pledged as security; tax exemption

(a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 1437c(g) of this title, obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income de-

rived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

(Sept. 1, 1937, ch. 896, title I, § 11, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 667; amended Pub. L. 97–35, title III, § 322(c), Aug. 13, 1981, 95 Stat. 402; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, § 572(2), Nov. 28, 1990, 104 Stat. 4236.)

PRIOR PROVISIONS

A prior section 11 of act Sept. 1, 1937, ch. 896, 50 Stat. 893, as amended, authorized capital grants to public housing agencies in assistance of low rentals and was classified to section 1411 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1990—Pub. L. 101–625 substituted ''low-income housing'' for ''lower income housing'' wherever appearing.

1981—Pub. L. 97–35 substituted reference to lower income for reference to low-income wherever appearing.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§ 1437j. Labor standards and community service requirement

(a) Payment of wages prevailing in locality

Any contract for loans, contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Exception for volunteers

Subsection (a) of this section and the provisions relating to wages (pursuant to subsection (a) of this section) in any contract for loans, annual contributions, sale, or lease pursuant to this chapter, shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

(c) Community service requirement

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g) of this section) for 8 hours per month.

(2) Exemptions

The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997));[1]

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) Annual determinations

(A) Requirement

For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 1437d(*l*)(1) of this title, review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) Due process

Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) Noncompliance

If an agency determines that a resident subject to the requirement under paragraph

[1] So in original. Probably should be only one closing parenthesis.

(1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k);[2] and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) Ineligibility for occupancy for noncompliance

A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) Inclusion in plan

Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) Geographic location

The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) Prohibition against replacement of employees

In carrying out this subsection, a public housing agency may not—

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) Third-party coordinating

A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) Treatment of income changes resulting from welfare program requirements

(1) Covered family

For purposes of this subsection, the term ''covered family'' means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 1437f of this title.

(2) Decreases in income for failure to comply

(A) In general

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) No reduction based on time limit for assistance

For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning on October 21, 1998.

(3) Effect of fraud

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the ex-

[2] See References in Text note below.

tent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning on October 21, 1998.

(4) Notice

Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this chapter on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) Occupancy rights

This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 1437f of this title.

(6) Review

Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 1437d(k) of this title for the public housing agency.

(7) Cooperation agreements for economic self-sufficiency activities

(A) Requirement

A public housing agency providing public housing dwelling units or tenant-based assistance under section 1437f of this title for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) of this section and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) Contents

A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 1437f of this title, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions onsite in such housing, and such other elements as may be appropriate.

(C) Confidentiality

This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e) Lease provisions

A public housing agency shall incorporate into leases under section 1437d(*l*) of this title and into agreements for the provision of tenant-based assistance under section 1437f of this title, provisions incorporating the conditions under subsection (d) of this section.

(f) Treatment of income

Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 1437f of this title, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g) Definition

For purposes of this section, the term ''economic self-sufficiency program'' means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

(Sept. 1, 1937, ch. 896, title I, § 12, as added Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 667; amended Pub. L. 97–35, title III, § 322(c), Aug. 13, 1981, 95 Stat. 402; Pub. L. 100–242, title I, § 112(b)(5), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, § 572(2), title IX, § 955(b), Nov. 28, 1990, 104 Stat. 4236, 4421; Pub. L. 105–276, title V, § 512(a), Oct. 21, 1998, 112 Stat. 2539.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Subsection (k), referred to in subsec. (c)(3)(C)(i)(II), probably means section 1437d(k) of this title, which relates to administrative grievance procedures. This section does not contain a subsec. (k).

CODIFICATION

In subsec. (a), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act (49 Stat. 1011)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 12 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, authorized the disposal of low-rent housing projects transferred to or acquired by the Au-

thority and was classified to section 1412 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Pub. L. 105–276, § 512(a)(1), inserted ''and community service requirement'' after ''Labor standards'' in section catchline.

Subsecs. (c) to (g). Pub. L. 105–276, § 512(a)(2), added subsecs. (c) to (g).

1990—Pub. L. 101–625, § 955(b), designated existing provisions as subsec. (a) and added subsec. (b).

Pub. L. 101–625, § 572(2), substituted ''low-income housing'' for ''lower income housing''.

1988—Pub. L. 100–242 struck out ''annual'' before ''contributions''.

1981—Pub. L. 97–35 substituted reference to lower income for reference to low-income.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 955(d) of Pub. L. 101–625 provided that: ''The amendments made by this section [amending this section, section 5310 of this title, and section 1701q of Title 12, Banks and Banking] shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act [Nov. 28, 1990], except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§ 1437j–1. Repealed. Pub. L. 105–276, title V, § 582(a)(5), Oct. 21, 1998, 112 Stat. 2643

Section, Pub. L. 97–35, title III, § 329A, Aug. 13, 1981, 95 Stat. 409, related to payment for development managers of projects assisted under this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437k. Consortia, joint ventures, affiliates, and subsidiaries of public housing agencies

(a) Consortia

(1) In general

Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

(2) Effect

With respect to any consortium described in paragraph (1)—

(A) any assistance made available under this subchapter to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

(3) Restrictions

(A) Agreement

Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 1437c–1 of this title.

(B) Minimum requirements

The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

(b) Joint ventures

(1) In general

Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this subchapter; or

(ii) for the purpose of providing or arranging for the provision of supportive or social services.

(2) Use and treatment of income

Any income generated under paragraph (1)—

(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

(B) shall not result in any decrease in any amount provided to the public housing agency under this subchapter, except as otherwise provided under the formulas established under section 1437g(d)(2) and 1437g(e)(2) of this title.

(3) Audits

The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.

(Sept. 1, 1937, ch. 896, title I, § 13, as added Pub. L. 96–153, title II, § 209, Dec. 21, 1979, 93 Stat. 1109; amended Pub. L. 96–399, title II, § 202(b), Oct. 8, 1980, 94 Stat. 1629; renumbered title I, Pub. L.

100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 105–276, title V, § 515, Oct. 21, 1998, 112 Stat. 2549.)

PRIOR PROVISIONS

A prior section 13 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, enumerated powers of the Authority and was classified to section 1413 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Pub. L. 105–276 amended section catchline and text of section generally. Prior to amendment, text read as follows: ''The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this chapter with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems.''

1980—Pub. L. 96–399 struck out subsec. (a) which related to consideration by the Secretary, in utilizing contract authority, of projects which will be modernized to a substantial extent with weatherization materials as defined in section 6862(9) of this title, and redesignated former subsec. (b) as entire section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION

Pub. L. 100–242, title I, § 125, Feb. 5, 1988, 101 Stat. 1847, provided that:

''(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

''(b) REPORT.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

''(c) FUNDING.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1988.''

§ 1437*l*. Repealed. Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564

Section, act Sept. 1, 1937, ch. 896, title I, § 14, as added Pub. L. 96–399, title II, § 202(a), Oct. 8, 1980, 94 Stat. 1625; amended Pub. L. 97–35, title III, §§ 322(c), 329G, Aug. 13, 1981, 95 Stat. 402, 410; Pub. L. 98–181, title II, § 214(b), Nov. 30, 1983, 97 Stat. 1185; Pub. L. 98–479, title II, § 204(b)(2), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100–242, title I, §§ 112(b)(6), 119(b)–(i), 120, Feb. 5, 1988, 101 Stat. 1824, 1830–1837; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title IV, § 414, title V, §§ 509(a)–(g), 510, 572, Nov. 28, 1990, 104 Stat. 4160, 4187, 4191–4193, 4236; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 757, 759; Pub. L. 102–550, title I, §§ 111(b)(1), 115, title VI, § 625(a)(3), Oct. 28, 1992, 106 Stat. 3688, 3692, 3820; Pub. L. 103–233, title III, § 302, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104–19, title I, §§ 1001(a), 1003A, July 27, 1995, 109 Stat. 235, 236; Pub. L. 104–134, title I, § 101(e) [title II, § 201(a)(1)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–277; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–330, title V, § 501(b)(6), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title II, § 208, Oct. 21, 1998, 112 Stat. 2485, related to assistance for public housing modernization. See section 1437g(a) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105–276, title V, § 522(c), Oct. 21, 1998, 112 Stat. 2565, provided that:

''(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437*l*] shall apply as provided in section 519(e) of this Act [42 U.S.C. 1437g note].

''(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to section 14(q) of such Act [42 U.S.C. 1437*l*(q)] (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [see Tables for classification] (Public Law 104–134; 110 Stat. 1321–277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act [see Tables for classification]), notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201 [see Tables for classification], or any repeal of such section 201).

''(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

Pub. L. 104–134, title I, § 101(e) [title II, § 202], Apr. 26, 1996, 110 Stat. 1321–257, 1321–279; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, which required identification for removal from the inventory of a public housing agency of developments on same or contiguous sites which had more than 300 units and vacancy rate of at least 10 percent, were identified as distressed, and for which estimated cost of continued operation exceeded cost of providing tenant-based assistance under section 1437f of this title, provided for implementation and enforcement of provisions requiring identification, required each agency to develop and carry out plan for removal over 5-year period, and required provision of tenant-based assistance to families residing in any removed development, was repealed by Pub. L. 105–276, title V, § 537(b), Oct. 21, 1998, 112 Stat. 2592. Amounts made available to carry out section 101(e) [title II, § 202] of Pub. L. 104–134 authorized to be used, to extent provided in advance in appropriations Acts, to carry out section 1437z–5 of this title, and section 101(e) [title II, § 202] of Pub. L. 104–134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105–276, set out as a Transition note under section 1437z–5 of this title.

§ 1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title;

(1) annual contributions under this chapter for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.

(Sept. 1, 1937, ch. 896, title I, § 15, as added Pub. L. 96–399, title II, § 212, Oct. 8, 1980, 94 Stat. 1636; amended Pub. L. 100–242, title I, § 112(b)(7), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681.)

AMENDMENTS

1988—Cl. (2). Pub. L. 100–242 struck out ''with loans or debt service annual contributions'' after ''cost financed''.

§ 1437n. Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A)[1] TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(3) Prohibition of concentration of low-income families

(A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

[1] So in original. No subpar. (B) has been enacted.

(B) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c–1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II),[2] *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s)[3] of this title.

(4) Fungibility with tenant-based assistance

(A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance

[2] So in original. Cl. (i) does not contain subclauses.

[3] See References in Text note below.

under section 1437f of this title by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) of this section for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) Qualified family

For purposes of this paragraph, the term ''qualified family'' means a family having an income described in subsection (b)(1) of this section.

(b) Income eligibility for tenant-based section 1437f assistance

(1) In general

Of the families initially provided tenant-based assistance under section 1437f of this title by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(2) Jurisdictions served by multiple PHAs

In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 1437f of this title with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) Income eligibility for project-based section 1437f assistance

(1) Pre-1981 act projects

Not more than 25 percent of the dwelling units that were available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter before October 1, 1981, and which will be leased on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(2) Post-1981 act projects

Not more than 15 percent of the dwelling units which become available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(3) Targeting

For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(4) Prohibition of skipping

In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) Exception

The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 1437f of this title for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) Definition

For purposes of this subsection, the term ''project-based assistance'' means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 1437f(b)(2) of this title (as in effect before October 1, 1983).

(B) The property disposition program under section 1437f(b) of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

(C) The loan management set-aside program under subsections (b) and (v) of section 1437f of this title.

(D) The project-based certificate program under section 1437f(d)(2) of this title.

(E) The moderate rehabilitation program under section 1437f(e)(2) of this title (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 1701s of title 12 or section 1715z–1(f)(2) of title 12.

(d) Establishment of different standards

Notwithstanding subsection (a)(2) or (b)(1) of this section, if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) Repealed. Pub. L. 105–276, title V, § 576(d)(2), Oct. 21, 1998, 112 Stat. 2640

(f) Ineligibility of individuals convicted of manufacturing or producing methamphetamine on the premises

Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 1437f of this title that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 1437f of this title for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 1437f of this title for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

(Sept. 1, 1937, ch. 896, title I, § 16, as added Pub. L. 97–35, title III, § 323, Aug. 13, 1981, 95 Stat. 404; amended Pub. L. 98–181, title II, § 213, Nov. 30, 1983, 97 Stat. 1184; Pub. L. 100–242, title I, §§ 103, 112(b)(8), Feb. 5, 1988, 101 Stat. 1822, 1824; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, § 1001(a), Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101–625, title V, §§ 511, 572(1), Nov. 28, 1990, 104 Stat. 4194, 4236; Pub. L. 102–550, title I, § 105, Oct. 28, 1992, 106 Stat. 3684; Pub. L. 104–99, title IV, § 402(d)(6)(A)(v), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104–120, § 9(d), Mar. 28, 1996, 110 Stat. 837; Pub. L. 104–330, title V, § 501(b)(7), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title IV, § 428, title V, §§ 513(a), 576(d)(2), Oct. 21, 1998, 112 Stat. 2511, 2543, 2640; Pub. L. 105–277, div. A, § 123, Oct. 21, 1998, 112 Stat. 2681–546; Pub. L. 106–74, title II, § 205, Oct. 20, 1999, 113 Stat. 1069.)

REFERENCES IN TEXT

Section 1437d(s) of this title, referred to in subsec. (a)(3)(B)(iii), probably should be a reference to section 1437d(r) of this title. Pub. L. 105–276, title V, §§ 525, 575(d), 576(d)(1)(B), Oct. 21, 1998, 112 Stat. 2568, 2637, 2640, amended section 1437d by adding a subsec. (s) relating to site-based waiting lists and a subsec. (t) relating to authority to require access to criminal records and then redesignated those subsecs. (s) and (t) as (r) and (s), respectively.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (c)(6)(B), (G), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, as amended, which is classified principally to chapter 42 (§ 4101 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101–625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under section 1715*l* of Title 12, Banks and Banking, and which amended section 1715z–6 of Title 12, were amended generally by Pub. L. 101–625 and are classified to subchapter I (§ 4101 et seq.) of chapter 42 of Title 12. Subtitles C and D of title II amended section 1715z–15 of Title 12 and sections 1437f, 1472, 1485, and 1487 of this title. Another subtitle C of title II of Pub. L. 100–242, as added by Pub. L. 102–550, is classified generally to subchapter II (§ 4141 et seq.) of chapter 42 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

CODIFICATION

October 1, 1981, referred to in subsec. (c)(1), (2), was in the original ''the effective date of the Housing and Community Development Amendments of 1981'' and ''such effective date'', meaning the effective date of subtitle A of title III of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 384, which was generally effective Oct. 1, 1981. See Effective Date note below.

AMENDMENTS

1999—Subsecs. (a)(2)(A), (c)(3). Pub. L. 106–74, § 205(1), inserted before the period at end ''; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes''.

1998—Subsecs. (a) to (d). Pub. L. 105–276, § 513(a), as amended by Pub. L. 105–277, § 123, added subsecs. (a) to (d) and struck out former subsecs. (a) to (d). Prior to amendment, subsec. (a) related to percentage availability under contracts prior to Oct. 1, 1981, subsec. (b) related to percentage availability under contracts on or after Oct. 1, 1981, subsec. (c) related to admission procedures implementing subsec. (b), and subsec. (d) related to applicability of admission procedures limitations.

Subsec. (e). Pub. L. 105–276, § 576(d)(2), struck out heading and text of subsec. (e), which directed public

housing agency to establish standards to prohibit occupancy by and terminate tenancy of any person illegally using controlled substance or whose use of controlled substance or abuse of alcohol might interfere with peaceful enjoyment of premises by other residents, and authorized agency to consider rehabilitation of person in making determination to deny occupancy.

Subsec. (f). Pub. L. 105–276, § 428, added subsec. (f).

1996—Pub. L. 104–120, § 9(d)(1), substituted ''Eligibility'' for ''Income eligibility'' in section catchline.

Subsec. (c). Pub. L. 104–99 temporarily substituted ''the written system of preferences for selection established by the public housing agency pursuant to section 1437d(c)(4)(A)'' for ''the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii)''. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d). Pub. L. 104–330, § 501(b)(7)(A), redesignated par. (1) as entire subsec. and struck out par. (2) which read as follows: ''The limitations established in subsections (a) and (b) of this section shall not apply to dwelling units assisted by Indian public housing agencies, to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title..''

Subsec. (e). Pub. L. 104–120, § 9(d)(2), added subsec. (e).

Subsec. (e)(3). Pub. L. 104–330, § 501(b)(7)(B), struck out heading and text of par. (3). Text read as follows: ''This subsection does not apply to any dwelling unit assisted by an Indian housing authority.''

1992—Subsec. (c). Pub. L. 102–550, § 105(a), substituted ''very low-income families and shall'' for ''very low-income families, shall'' and ''. In developing such admission procedures, the Secretary shall'' for '', and shall'' and inserted ''; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii) of this title'' after ''higher income families for residence''.

Subsec. (d)(2). Pub. L. 102–550, § 105(b), inserted before period at end '', to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title.''

1990—Subsec. (a). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families''.

Subsec. (b). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' in par. (1).

Pub. L. 101–625, § 511, designated existing provisions as par. (1), substituted ''15 percent'' for ''5 per centum'', and added par. (2).

Subsecs. (c), (d)(1). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families'' wherever appearing.

1988—Subsec. (b). Pub. L. 100–242, § 112(b)(8), struck out ''annual'' before ''contributions''.

Subsec. (c). Pub. L. 100–628 substituted ''shall establish an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program'' for ''and shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs'' and inserted before period at end of first sentence '', and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence''.

Pub. L. 100–242, § 103, added subsec. (c).

Subsec. (d). Pub. L. 100–242, § 103, added subsec. (d).

1983—Subsec. (a). Pub. L. 98–181 increased to 25 from 10 the percentage of dwelling units available for leasing.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–277, div. A, § 123, Oct. 21, 1998, 112 Stat. 2681–546, provided that the amendment made by section 123 of Pub. L. 105–277 is effective upon enactment of Pub. L. 105–276.

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, § 513(b), Oct. 21, 1998, 112 Stat. 2547, provided that: ''This section [amending this section] shall take effect on, and the amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as a note under section 3701 of Title 12, Banks and Banking.

§ 1437*o*. Repealed. Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128

Section, act Sept. 1, 1937, ch. 896, title I, § 17, as added Nov. 30, 1983, Pub. L. 98–181, title III, § 301, 97 Stat. 1196; amended Oct. 17, 1984, Pub. L. 98–479, title I, § 103, 98 Stat. 2223; Oct. 18, 1986, Pub. L. 99–500, § 101(g), 100 Stat. 1783–242, and Oct. 30, 1986, Pub. L. 99–591, § 101(g), 100 Stat. 3341–242; Dec. 22, 1987, Pub. L. 100–202, §§ 101(f) [title I, § 101], 106, 101 Stat. 1329–187, 1329–189, 1329–433; Feb. 5, 1988, Pub. L. 100–242, title I, §§ 150, 151, 170(e), 101 Stat. 1853, 1854, 1867; renumbered title I, June 29, 1988, Pub. L. 100–358, § 5, 102 Stat. 681; Nov. 7, 1988, Pub. L. 100–628, title X, § 1007, 102 Stat. 3266; June 30, 1989, Pub. L. 101–45, title I, 103 Stat. 112; Dec. 15, 1989, Pub. L. 101–235, title III, § 304, 103 Stat. 2044; May 25, 1990, Pub. L. 101–302, title II, 104 Stat. 238; Nov. 5, 1990, Pub. L. 101–507, title II, 104 Stat. 1369; Nov. 28, 1990, Pub. L. 101–625, title V, § 572(1), 104 Stat. 4236; Apr. 10, 1991, Pub. L. 102–27, title II, 105 Stat. 150; Oct. 28, 1992, Pub. L. 102–550, title VI, § 625(a)(4), 106 Stat. 3820, authorized Secretary to make rental rehabilitation and development grants.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(1), (b)(1) of this title.

§ 1437p. Demolition and disposition of public housing

(a) Applications for demolition and disposition

Except as provided in subsection (b) of this section, upon receiving an application by a public housing agency for authorization, with or without financial assistance under this sub-

chapter, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this subchapter—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this subchapter; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

(4) that the public housing agency—

(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be demolished or disposed of;

(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

(iii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and[1]

(D) will provide any necessary counseling for residents who are displaced; and

(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

(5) that the net proceeds of any disposition will be used—

(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

(6) that the public housing agency has complied with subsection (c) of this section.

(b) Disapproval of applications

The Secretary shall disapprove an application submitted under subsection (a) of this section if the Secretary determines that—

(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

[1] So in original. The word ''and'' probably should not appear.

(2) the application was not developed in consultation with—

(A) residents who will be affected by the proposed demolition or disposition;

(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

(C) appropriate government officials.

(c) Resident opportunity to purchase in case of proposed disposition

(1) In general

In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) Timing

(A) Expression of interest

A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(B) Opportunity to arrange purchase

If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) Replacement units

Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) Consolidation of occupancy within or among buildings

Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) De minimis exception to demolition requirements

Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) Uniform Relocation and Real Property Acquisition Act

The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.] shall not apply to activities under this section.

(h) Relocation and replacement

Of the amounts appropriated for tenant-based assistance under section 1437f of this title in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

(Sept. 1, 1937, ch. 896, title I, § 18, as added Pub. L. 98–181, title II, § 214(a), Nov. 30, 1983, 97 Stat. 1184; amended Pub. L. 100–242, title I, §§ 112(b)(9), 121, 170(f), Feb. 5, 1988, 101 Stat. 1824, 1837, 1867; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title IV, § 412, title V, §§ 512(a), 513(b), (c), 572, Nov. 28, 1990, 104 Stat. 4159, 4194–4196, 4236; Pub. L. 102–550, title I, §§ 111(b)(2), 116(a)–(c), Oct. 28, 1992, 106 Stat. 3688, 3693, 3694; Pub. L. 104–19, title I, § 1002(a), July 27, 1995, 109 Stat. 235; Pub. L. 104–134, title I, § 101(e) [title II, § 201(b)(2)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–276, title V, § 531(a), Oct. 21, 1998, 112 Stat. 2570.)

REFERENCES IN TEXT

The Uniform Relocation and Real Property Acquisition Policies Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, and which is classified principally to chapter 61 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–276 amended section generally. Prior to amendment, subsec. (a) required the Secretary to make certain determinations before approving the demolition or disposition of all or part of a public housing project; subsec. (b) required public housing agency consultation with tenants and provision of relocation assistance; subsec. (c) authorized financial assistance using section 1437c contributions; subsec. (d) provided that agency would not be prevented from consolidating occupancy within or among buildings or projects; subsec. (e) provided set-asides for replacement housing in fiscal years 1993 and 1994; subsec. (f) authorized construction on original site if number of new units would be less than number of demolished units; and subsec. (g) declared that this section did not apply to dispositions in accordance with approved homeownership program under subchapter II–A of this chapter.

1996—Subsec. (f). Pub. L. 104–134 inserted at end ''No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved, by a court.''

1995—Subsec. (b)(1). Pub. L. 104–19, § 1002(a)(1), inserted ''and'' after ''housing assistance plan;''.

Subsec. (b)(2). Pub. L. 104–19, § 1002(a)(2), substituted ‘‘, and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this chapter and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated.’’ for ‘‘; and’’.

Subsec. (b)(3). Pub. L. 104–19, § 1002(a)(3), struck out par. (3) which made approval conditional upon development of plan for provision of additional unit for each unit to be demolished or disposed of.

Subsec. (c). Pub. L. 104–19, § 1002(a)(4), (5), struck out par. (1) designation and text of par. (2), which read as follows: ‘‘The Secretary shall, upon approving a plan under subsection (b)(3) of this section, agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan. As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—

‘‘(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3) of this section; and

‘‘(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A).’’

Subsec. (d). Pub. L. 104–19, § 1002(a)(6), inserted before period at end ‘‘: *Provided*, That nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants’’.

Subsec. (e). Pub. L. 104–19, § 1002(a)(7), which directed the striking of ‘‘under section (b)(3)(A) of this section’’ each place it occurred, was executed by striking out ‘‘under subsection (b)(3)(A) of this section’’ before ‘‘for units demolished or disposed of’’ in two places, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 104–19, § 1002(a)(8), (9), added subsec. (f) and redesignated former subsec. (f) as (g).

1992—Subsec. (a)(3). Pub. L. 102–550, § 111(b)(2), added par. (3).

Subsec. (b)(1). Pub. L. 102–550, § 116(a), inserted ‘‘of the project or portion of the project covered by the application’’ after ‘‘tenant cooperative’’.

Subsec. (b)(3). Pub. L. 102–550, § 116(b)(5), inserted at end ‘‘except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.’’

Subsec. (b)(3)(A)(ii). Pub. L. 102–550, § 116(b)(1)(A), inserted before semicolon at end ‘‘to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 1437f of this title having a term of not less than 5 years’’.

Subsec. (b)(3)(A)(iii). Pub. L. 102–550, § 116(b)(1)(B), inserted before semicolon at end ‘‘to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years’’.

Subsec. (b)(3)(A)(v). Pub. L. 102–550, § 116(b)(1)(C), inserted before semicolon ‘‘to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 1437f of this title (excluding vouchers under section 1437f(*o*) of this title) having a term of not less than 5 years’’.

Subsec. (b)(3)(B). Pub. L. 102–550, § 116(b)(4), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C) to (F). Pub. L. 102–550, § 116(b)(3), redesignated subpars. (B) to (E) as (C) to (F), respectively. Former subpar. (F) redesignated (G).

Subsec. (b)(3)(G). Pub. L. 102–550, § 116(b)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 102–550, § 116(b)(2), substituted ‘‘tenant's choice;’’ for ‘‘tenant's choice.’’

Subsec. (b)(3)(H). Pub. L. 102–550, § 116(b)(3), redesignated subpar. (G) as (H).

Subsecs. (e), (f). Pub. L. 102–550, § 116(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (a)(2)(A)(i). Pub. L. 101–625, § 572(2), substituted ‘‘low-income housing’’ for ‘‘lower income housing’’ wherever appearing.

Subsec. (a)(2)(B). Pub. L. 101–625, § 572, substituted ‘‘low-income families’’ for ‘‘lower income families’’ and ‘‘low-income housing’’ for ‘‘lower income housing’’ wherever appearing.

Pub. L. 101–625, § 512(a), inserted before first comma ‘‘, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition’’.

Subsec. (b)(1). Pub. L. 101–625, § 412(a), substituted ‘‘disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,’’ for ‘‘disposition’’.

Subsec. (c)(2). Pub. L. 101–625, § 513(b), inserted at end ‘‘As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—’’, and added subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 101–625, § 513(c), struck out par. (3) which read as follows: ‘‘The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 1437f(e)(2) of this title, give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3) of this section.’’

Subsec. (e). Pub. L. 101–625, § 412(b), added subsec. (e).

1988—Subsec. (a)(1). Pub. L. 100–242, § 121(a), substituted ‘‘and’’ for ‘‘or’’ after ‘‘purposes,’’.

Subsec. (b). Pub. L. 100–242, § 170(f), inserted ‘‘or’’ after ‘‘under this section’’.

Subsec. (b)(3). Pub. L. 100–242, § 121(b), added par. (3).

Subsec. (c). Pub. L. 100–242, § 121(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 100–242, § 112(b)(9), substituted ‘‘contributions authorized under section 1437c’’ for ‘‘annual contributions authorized under section 1437c(c)’’.

Subsec. (d). Pub. L. 100–242, § 121(d), added subsec. (d) and struck out former subsec. (d) which read as follows: ‘‘The provisions of this section shall not apply to the conveyance of units in a public housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.’’

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, § 531(c), Oct. 21, 1998, 112 Stat. 2574, provided that: ‘‘This section [amending this section and section 1437aaa–3 of this title and enacting provisions set out as a note under section 1437aaa–3 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].’’

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–19 effective for applications for demolition, disposition, or conversion to

homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995 and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104–19, as amended, set out as a note under section 1437c of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 512(b) of Pub. L. 101–625 provided that: ''The amendment made by this section [amending this section] shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act [Nov. 28, 1990].''

REPLACEMENT HOUSING DEMONSTRATION PROGRAM

Section 513(a) of Pub. L. 101–625 directed Secretary of Housing and Urban Development to carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under 42 U.S.C. 1437f, with Secretary to carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for Saint Louis, Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition, and with the demonstration program to terminate at end of Sept. 30, 1992.

§ 1437q. Financing limitations

On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 1437c(c) of this title if such obligations are exempt from taxation under section 1437i(b) of this title, or if such obligations are issued under section 1437b of this title and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 2294(b) of title 12) issued by local public housing agencies for purposes of financing public housing projects authorized by section 1437c(c) of this title.

(Sept. 1, 1937, ch. 896, title I, § 19, as added Pub. L. 98–181, title II, § 215, Nov. 30, 1983, 97 Stat. 1185; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681.)

§ 1437r. Public housing resident management

(a) Purpose

The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term ''public housing project'' includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) Program requirements

(1) Resident council

As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) Public housing management specialist

The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) Bonding and insurance

Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) Management responsibilities

A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this chapter applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility

determinations, tenant eviction, the acquisition of supplies and materials, rent determination, community service requirements,,[1] and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) Annual audit

The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c) Assistance amounts

A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) of this section for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 1437g of this title.

(d) Waiver of Federal requirements

(1) Waiver of regulatory requirements

Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) Waiver to permit employment

Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

(3) Exceptions

The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 1437n of this title, rental payments under section 1437a(a) of this title, tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) Direct provision of operating and capital assistance

(1) In general

The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

(A) the resident management corporation petitions the Secretary for the release of the funds;

(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

(2) Use of assistance

Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

(3) Responsibility of public housing agency

If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

(4) Calculation of Operating Fund allocation

Notwithstanding any provision of section 1437g of this title or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 1437g of this title that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

(5) Calculation of total income

(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on February 5, 1988, or on any later date on which a resident management corporation is first established for the project.

(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 1437g of this title) is reduced or increased, the income provided by the public housing agency to a public

[1] So in original.

housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

(6) Retention of excess revenues

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the allocations from the Operating Fund for the public housing agency under section 1437g of this title; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.

(f), (g) Repealed. Pub. L. 105–276, title V, § 532(a)(5), Oct. 21, 1998, 112 Stat. 2575

(h) Applicability

Any management contract between a public housing agency and a resident management corporation that is entered into after November 7, 1988, shall be subject to this section and the regulations issued to carry out this section.

(Sept. 1, 1937, ch. 896, title I, § 20, as added Pub. L. 100–242, title I, § 122, Feb. 5, 1988, 101 Stat. 1839; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; amended Pub. L. 100–628, title X, § 1003, Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101–625, title IV, § 415, title V, §§ 514, 572(1), Nov. 28, 1990, 104 Stat. 4160, 4196, 4236; Pub. L. 102–550, title I, § 117, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 105–276, title V, § 532(a), Oct. 21, 1998, 112 Stat. 2574.)

PRIOR PROVISIONS

A prior section 1437r, act Sept. 1, 1937, ch. 896, § 20, as added Nov. 6, 1986, Pub. L. 99–603, title I, § 121(b)(6), 100 Stat. 3391, related to payment for implementation of immigration status verification system, prior to repeal by Pub. L. 100–242, § 164(f)(2).

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–276, § 532(a)(1), inserted ", rent determination, community service requirements," after "materials".

Subsec. (c). Pub. L. 105–276, § 532(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 1437*l* of this title for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract."

Subsec. (d)(3), (4). Pub. L. 105–276, § 532(a)(3), redesignated par. (4) as (3) and struck out heading and text of former par. (3). Text read as follows: "Not later than 6 months after February 5, 1988, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies."

Subsec. (e)(1) to (3). Pub. L. 105–276, § 532(a)(4)(B), added subsec. heading and pars. (1) to (3) and struck out former subsec. heading and former pars. (1) to (3), which in par. (1), specified amount of operating subsidy to be allocated to a public housing project managed by a resident management corporation; in par. (2), set forth requirements for any contract for management of a project entered into by a public housing agency and a resident management corporation; and in par. (3), prohibited reduction of funds provided by an agency to a project during 3-year period beginning on date on which resident management corporation is first established for the project, and provided for proportional reduction or increase if total income of agency is reduced or increased.

Subsec. (e)(4), (5). Pub. L. 105–276, § 532(a)(4)(B), added pars. (4) and (5). Former par. (4) redesignated (6).

Subsec. (e)(6). Pub. L. 105–276, § 532(a)(4)(A), redesignated par. (4) as (6).

Subsec. (e)(6)(A)(i). Pub. L. 105–276, § 532(a)(4)(C), substituted "the allocations from the Operating Fund for" for "the operating subsidies provided to".

Subsec. (f). Pub. L. 105–276, § 532(a)(5), struck out heading and text of subsec. (f) which required Secretary to provide financial assistance to resident management corporations or resident councils that obtain technical assistance for the development of resident management entities, limited assistance to $100,000 with respect to any public housing project, authorized appropriations for fiscal years 1993 and 1994, and limited assistance to corporations or councils where assistance was provided under subchapter II–A of this chapter.

Subsec. (g). Pub. L. 105–276, § 532(a)(5), struck out heading and text of subsec. (g). Text read as follows: "Not later than 3 years after February 5, 1988, the Secretary shall—

"(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate."

1992—Subsec. (f)(3). Pub. L. 102–550 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "(3) FUNDING.—Of amounts made available for financial assistance under section 1437*l* of this title, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992."

1990—Subsec. (e)(4)(B). Pub. L. 101–625, § 572(1), substituted "low-income families" for "lower income families".

Subsec. (f)(3). Pub. L. 101–625, § 514, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Of the amounts available for financial assistance under section 1437*l* of this title, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989."

Subsec. (f)(4). Pub. L. 101–625, § 415, added par. (4).

1988—Subsec. (h). Pub. L. 100–628 added subsec. (h).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may im-

plement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§ 1437s. Public housing homeownership and management opportunities

(a) Homeownership opportunities in general

Low-income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) Formation of resident management corporation

As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 1437r of this title;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

(2) Homeownership assistance

(A) The Secretary may provide assistance from the Capital Fund to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(3) Conditions of purchase by a resident management corporation

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the housing quality standards applicable under section 1437d(f) of this title, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(4) Conditions of resale

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 1437f of this title, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 1437f of this title, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) Use of proceeds

Notwithstanding any other provision of this chapter or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) Financing

When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) Capital and operating assistance

Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to provide assistance under section 1437g of this title with respect to the project. Such assistance may not exceed the allocation for the project under section 1437g of this title.

(8) Operating Fund allocation

Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) Protection of nonpurchasing families

(1) Eviction prohibition

No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) Tenants rights

Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this chapter.

(3) Rental assistance

If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) tenant-based assistance under section 1437f(*o*) of this title for as long as the family continues to reside in the building. The Secretary may adjust the payment standard for such assistance to take into account conditions under which the building was purchased.

(4) Rental and relocation assistance

If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 1437a(a)(1) of this title.

(c) Financial assistance for public housing agencies

The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

(d) Additional homeownership and management opportunities

This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 1437d(c)(4)(D) of this title, as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, and in existence before February 5, 1988.

(e) Regulations

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

(f) Repealed. Pub. L. 104–66, title I, § 1071(a), Dec. 21, 1995, 109 Stat. 720

(g) Limitation

Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

(Sept. 1, 1937, ch. 896, title I, § 21, as added Pub. L. 100–242, title I, § 123, Feb. 5, 1988, 101 Stat. 1842; renumbered title I, Pub. L. 100–358, § 5, June 29, 1988, 102 Stat. 681; amended Pub. L. 101–625, title IV, § 416, title V, § 572(1), Nov. 28, 1990, 104 Stat. 4161, 4236; Pub. L. 102–550, title I, § 118, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 104–66, title I, § 1071(a), Dec. 21, 1995, 109 Stat. 720; Pub. L. 105–276, title V, §§ 518(a)(2)(A), 532(b), Oct. 21, 1998, 112 Stat. 2551, 2575.)

REFERENCES IN TEXT

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (d), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

1998—Subsec. (a)(2)(A). Pub. L. 105–276, § 532(b)(1)(A), substituted ''assistance from the Capital Fund'' for ''comprehensive improvement assistance under section 1437*l* of this title''.

Subsec. (a)(3)(A)(v). Pub. L. 105–276, § 532(b)(1)(B), substituted ''housing quality standards applicable under section 1437d(f) of this title'' for ''minimum safety and livability standards applicable under section 1437*l* of this title''.

Subsec. (a)(7). Pub. L. 105–276, § 532(b)(1)(C), in heading, substituted ''Capital and operating assistance'' for ''Annual contributions'', in first sentence, substituted ''provide assistance under section 1437*g* of this title'' for ''pay annual contributions'', and at end, substituted ''Such assistance may not exceed the allocation for the project under section 1437*g* of this title'' for ''Such contributions may not exceed the maximum contributions authorized in section 1437c(a) of this title.''

Subsec. (a)(8). Pub. L. 105–276, § 532(b)(1)(D), in heading substituted ''fund allocation'' for ''subsidies'' and in text substituted ''Amounts from the Operating Fund'' for ''Operating subsidies''.

Subsec. (b)(3). Pub. L. 105–276, § 532(b)(2), in first sentence, substituted ''tenant-based assistance'' for ''a certificate under section 1437f(b)(1) of this title or a housing voucher'' and, in second sentence, substituted ''payment standard for such assistance'' for ''fair market rent for such certificate''.

Subsec. (d). Pub. L. 105–276, § 532(b)(3), inserted '', as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998,'' after ''section 1437d(c)(4)(D) of this title''.

Pub. L. 105–276, § 518(a)(2)(A), struck out ''section 1437c(h) of this title or'' after ''program established under''.

1995—Subsec. (f). Pub. L. 104–66 struck out heading and text of subsec. (f). Text read as follows: ''The Secretary shall annually submit to the Congress a report setting forth—

''(1) the number, type, and cost of units sold;

''(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

''(3) the amount and type of financial assistance provided;

''(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

''(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

''(6) recommendations of the Secretary for additional budget authority to carry out such development;

''(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for low-income families; and

''(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.''

1992—Subsec. (a)(2)(C), (3)(C). Pub. L. 102–550 substituted ''February 4, 1991'' for ''the effective date of the regulations implementing subchapter II–A of this chapter'' and ''after such date'' for ''after such effective date'' and made technical amendment to reference to November 28, 1990, to reflect correction of corresponding provisions of original act.

1990—Subsec. (a). Pub. L. 101–625, § 572(1), which directed substitution of ''low-income families'' for ''lower income families'', was executed by substituting ''Low-income families'' for ''Lower income families'' in introductory provisions to reflect the probable intent of Congress.

Subsec. (a)(2)(B). Pub. L. 101–625, § 416(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to

be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.''

Subsec. (a)(2)(C). Pub. L. 101–625, § 416(2), substituted ''the effective date of the regulations implementing subchapter II–A of this chapter. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990'' for ''September 30, 1990''.

Subsec. (a)(3)(C). Pub. L. 101–625, § 416(3), substituted ''the effective date of the regulations implementing subchapter II–A of this chapter. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990'' for ''September 30, 1990''.

Subsec. (f)(7). Pub. L. 101–625, § 572(1), substituted ''low-income families'' for ''lower income families''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§ 1437t. Authority to convert public housing to vouchers

(a) Authority

A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) Conversion assessment

(1) In general

To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 1437f of this title for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 1437f of this title in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 1437f of this title by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) Timing

Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c) of this section.

(3) Streamlined assessment

At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) Criteria for implementation of conversion plan

A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) of this section that one year[1] and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) Conversion plan requirement

A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e) of this section. Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

[1] So in original.

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 1437p(a)(5) of this title to proceeds resulting from the disposition or demolition of public housing.

(e) Review and approval of conversion plans

The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b) of this section;

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) the plan otherwise fails to meet the requirements of this section.

(f) Tenant-based assistance

To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 1437f of this title shall be added to the annual contribution contract administered by the public housing agency.

(Sept. 1, 1937, ch. 896, title I, § 22, as added Pub. L. 101–625, title V, § 515(a), Nov. 28, 1990, 104 Stat. 4196; amended Pub. L. 102–550, title I, § 119, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 105–276, title V, § 533(a), Oct. 21, 1998, 112 Stat. 2576.)

REFERENCES IN TEXT

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(2), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

1998—Pub. L. 105–276 amended section generally. Prior to amendment, section related to award of grants to public housing agencies to adapt public housing to help families gain better access to educational and job opportunities, use of funds for supportive services, development of facilities to accommodate them, and employment of service coordinators, applications, selection for grants, reports to Secretary and Congress, and appropriations for fiscal years 1993 and 1994.

1992—Subsec. (k). Pub. L. 102–550 amended subsec. (k) generally, substituting present provisions for provisions authorizing $25,000,000 in fiscal year 1991 and $26,100,000 in fiscal year 1992.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105–276, title V, § 533(b), Oct. 21, 1998, 112 Stat. 2578, provided that: ''The amendment made by subsection (a) [amending this section] shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937 [42 U.S.C. 1437t], as such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title].''

PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION

Section 521 of Pub. L. 101–625, as amended by Pub. L. 102–550, title I, § 125, Oct. 28, 1992, 106 Stat. 3710, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs available for pregnant women residing in public housing, set forth preferences, limitation on grant amount, and program requirements, and required report to Congress not later than 1 year after amounts were first made available setting forth findings and conclusions and including recommendations with respect to establishment of permanent program, was repealed by Pub. L. 105–276, title V, § 582(a)(9), Oct. 21, 1998, 112 Stat. 2644.

§ 1437u. Family Self-Sufficiency program

(a) Purpose

The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to

coordinate use of public housing and assistance under the certificate and voucher programs under section 1437f of this title with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) Establishment of program

(1) Required programs

Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (*o*) of section 1437f of this title or makes available new public housing dwelling units—

(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section;

(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section, subject to the limitations in paragraph (4); and

(C) effective on October 21, 1998, to the extent an agency is not required to carry out a program pursuant to subparagraph (B) of this paragraph and paragraph (4), may carry out a local Family Self-Sufficiency program under this section.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) of this section and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

(2) Exception

The Secretary shall not require a public housing agency to carry out a local program under subsection (a) of this section if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.]) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] or the Job Opportunities and Basic Skills Training Program under part F[1] of title IV of the Social Security Act;

(B) lack of funding for reasonable administrative costs;

(C) lack of cooperation by other units of State or local government; or

(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this chapter, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.

(3) Scope

Subject to paragraph (4), each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

(A) Certificate and voucher assistance under section 1437f(b) and (*o*) of this title, in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

(4) Termination of requirement to expand program

(A) In general

Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (*o*) of section 1437f of this title or that makes available new public housing dwelling units shall not be required, after October 21, 1998, to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.

(B) Continuation of existing obligations

(i) In general

Each public housing agency that, before October 21, 1998, was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.

(ii) Reduction

The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after October 21, 1998, fulfills its obligations under the contract of participation.

(5) Nonparticipation

Assistance under the certificate or voucher programs under section 1437f of this title for a family that elects not to participate in a local

[1] See References in Text note below.

program shall not be delayed by reason of such election.

(c) Contract of participation

(1) In general

Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 1437f of this title or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 1437f of this title and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 1437d(k) of this title, that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).

(2) Supportive services

A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1). The supportive services shall be provided during the period the family is receiving assistance under section 1437f of this title or residing in public housing, and may include—

(A) child care;

(B) transportation necessary to receive services;

(C) remedial education;

(D) education for completion of high school;

(E) job training and preparation;

(F) substance abuse treatment and counseling;

(G) training in homemaking and parenting skills;

(H) training in money management;

(I) training in household management; and

(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) Term and extension

Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

(4) Employment and counseling

The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

(d) Incentives for participation

(1) Maximum rents

During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 1437f of this title may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 1437f of this title, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

(2) Escrow savings accounts

For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c) of this section, as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make

certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.

(3) Plan

Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.

(e) Effect of increases in family income

Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(f) Program coordinating committee

(1) Functions

Each public housing agency carrying out a local program under this section shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g) of this section, carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

(2) Membership

The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] or the Job Opportunities and Basic Skills Training Program under part F[2] of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(g) Action plan

(1) Required submission

The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) Development of plan

In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f) of this section, representatives of residents of the public housing, any local agencies responsible for programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] or the Job Opportunities and Basic Skills Training Program under part F[2] of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

(3) Contents of plan

The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

(C) a description of the services and activities under subsection (c)(2) of this section to be provided to families receiving assistance under this section through the section 8 [42 U.S.C. 1437f] and public housing programs, which shall be provided by both public and private resources;

(D) a description of the incentives pursuant to subsection (d) of this section offered by the public housing agency to families to encourage participation in the program;

(E) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

(G) a timetable for implementation of the local program;

(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F[2] of title IV of the Social Security Act and programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordi-

[2] See References in Text note below.

nated, in order to avoid duplication of services and activities; and

(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 [42 U.S.C. 1437f] assistance notwithstanding the provisions of this section.

(h) Allowable public housing agency administrative fees and costs

(1) Fees under section 1437f

The Secretary shall establish a fee under section 1437f(q) of this title for the costs incurred in administering the provision of certificate and voucher assistance under section 1437f of this title through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 1437f(q)(2)(A)(i)[2] of this title shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

(2) Performance funding system

Notwithstanding any provision of section 1437g of this title, the Secretary shall provide for inclusion under the performance funding system under section 1437g of this title of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 1437g of this title and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 1437g(c) of this title for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.

(i) Public housing agency incentive award allocation

(1) In general

The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 1437f of this title and public housing development assistance under section 1437c(a)(2) of this title reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

(2) Criteria

The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish perfomance[3] criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

(3) Use

Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

(4) Reservation of budget authority

Notwithstanding section 1439(d) of this title, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 1437f of this title that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 1437c(a)(2) of this title (excluding amounts for major reconstruction of obsolete projects).

(j) On-site facilities

Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 1437g of this title.

(k) Flexibility

In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(*l*) Reports

(1) To Secretary

Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

(A) a description of the activities carried out under the program;

(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

[3] So in original. Probably should be ''performance''.

(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD annual report

The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

(m) GAO report

The Comptroller General of the United States may submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(n) Definitions

As used in this section:

(1) The term ''contract of participation'' means a contract under subsection (c) of this section entered into by a public housing agency carrying out a local program under this section and a participating family.

(2) The term ''earned income'' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

(3) The term ''eligible family'' means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.

(4) The term ''local program'' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

(5) The term ''participating family'' means a family that resides in public housing or housing assisted under section 1437f of this title and elects to participate in a local self-sufficiency program under this section.

(6) The term ''vacant unit'' means a dwelling unit that has been vacant for not less than 9 consecutive months.

(*o*) Effective date and regulations

(1) Regulations

Not later than the expiration of the 180-day period beginning on November 28, 1990, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

(2) Repealed. Pub. L. 104–330, title V, § 501(b)(8), Oct. 26, 1996, 110 Stat. 4042

(Sept. 1, 1937, ch. 896, title I, § 23, as added Pub. L. 101–625, title V, § 554(a), Nov. 28, 1990, 104 Stat. 4225; amended Pub. L. 102–550, title I, §§ 106, 185(b), Oct. 28, 1992, 106 Stat. 3684, 3747; Pub. L. 104–316, title I, § 122(*l*), Oct. 19, 1996, 110 Stat. 3837; Pub. L. 104–330, title V, § 501(b)(8), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, § 509(a), Oct. 21, 1998, 112 Stat. 2530; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(31), (f)(23)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–425, 2681–433.)

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (b)(2), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title I of the Act is classified generally to subchapter I (§ 12701 et seq.) of chapter 130 of this title. Section 554(b) of the Act is set out below. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (b)(2)(A), (f)(2), and (g)(2), (3)(H), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Social Security Act, referred to in subsecs. (b)(2)(A), (f)(2), and (g)(2), (3)(H), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part F of title IV of the Act was classified generally to part F (§ 681 et seq.) of subchapter IV of chapter 7 of this title, prior to repeal by Pub. L. 104–193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 1437f(q)(2)(A) of this title, referred to in subsec. (h)(1), was amended generally by Pub. L. 105–276, title V, § 547, Oct. 21, 1998, 112 Stat. 2605, and, as so amended, does not contain a cl. (i).

Section 1437g(c) of this title, referred to in subsec. (h)(2), was amended generally by Pub. L. 105–276, title V, § 519(a), Oct. 21, 1998, 112 Stat. 2551, and, as so amended, does not relate to appropriations for fiscal years 1993 and 1994.

AMENDMENTS

1998—Subsec. (b)(1)(A). Pub. L. 105–276, § 509(a)(1)(A)(i), struck out ''and'' at end.

Subsec. (b)(1)(B). Pub. L. 105–276, § 509(a)(1)(A)(ii), substituted '', subject to the limitations in paragraph (4); and'' for period at end.

Subsec. (b)(1)(C). Pub. L. 105–276, § 509(a)(1)(A)(iii), added subpar. (C).

Subsec. (b)(2)(A). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(23)(A)], struck out ''the Job Training Partnership Act or'' after ''programs under''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(A)], substituted ''the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the'' for ''the Job Training Partnerships Act or the''.

Subsec. (b)(3). Pub. L. 105–276, § 509(a)(1)(B), substituted ''Subject to paragraph (4), each'' for ''Each'' in introductory provisions.

Subsec. (b)(4), (5). Pub. L. 105–276, § 509(a)(1)(C), (D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d)(3). Pub. L. 105–276, § 509(a)(2), struck out heading and text of par. (3) relating to use of escrow savings accounts. Text read as follows: ''Notwithstanding paragraph (3), a family that uses assistance under section 1437f(y) of this title to purchase a dwelling may

use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.''

Subsec. (f)(1). Pub. L. 105–276, § 509(a)(3), inserted ''carrying out a local program under this section'' after ''Each public housing agency''.

Subsec. (f)(2). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(23)(B)], struck out ''the Job Training Partnership Act or'' after ''programs under''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(B)], substituted ''programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the'' for ''programs under the Job Training Partnership Act and the''.

Subsec. (g)(2). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(23)(C)(i)], struck out ''the Job Training Partnership Act or'' after ''programs under''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(C)(i)], substituted ''programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the'' for ''for programs under the Job Training Partnership Act and the''.

Subsec. (g)(3)(H). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(23)(C)(ii)], struck out ''the Job Training Partnership Act or'' after ''programs under''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(C)(ii)], substituted ''programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 and any other'' for ''program under the Job Training Partnership Act and any other''.

1996—Subsec. (m). Pub. L. 104–316 substituted ''may'' for ''shall'' after ''United States'', struck out ''(1) IN GENERAL.—'' before ''The Comptroller General'', and struck out par. (2) which read as follows:

''(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

''(A) An interim report, not later than the expiration of the 2-year period beginning on November 28, 1990.

''(B) A final report, not later than the expiration of the 5-year period beginning on November 28, 1990.''

Subsec. (*o*)(2). Pub. L. 104–330 struck out heading and text of par. (2). Text read as follows: ''Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.''

1992—Subsec. (b)(2). Pub. L. 102–550, § 106(b), added subpars. (A) to (D) and concluding provisions and struck out former subpars. (A) to (D) which read as follows:

''(A) lack of supportive services funding;

''(B) lack of funding for reasonable administrative costs;

''(C) lack of cooperation by other units of State or local government; or

''(D) any other circumstances that the Secretary may consider appropriate.''

Subsec. (b)(4). Pub. L. 102–550, § 106(c), added par. (4).

Subsec. (c)(1). Pub. L. 102–550, § 106(d), in second sentence, inserted '', shall establish specific interim and final goals by which compliance with and performance of the contract may be measured,'' after ''program'' and substituted last sentence for former last sentence which read as follows: ''The contract shall provide that the public housing agency may terminate or withhold assistance under section 1437f of this title and services under paragraph (2) of this section if the family fails to comply with the requirements under the contract.''

Subsec. (c)(2). Pub. L. 102–550, § 106(e), struck out ''to each participating family'' after ''paragraph (1)'' in introductory provisions.

Subsec. (d). Pub. L. 102–550, § 106(g)(1), substituted ''Incentives for participation'' for ''Maximum rents and escrow savings accounts'' in heading.

Subsec. (d)(2). Pub. L. 102–550, § 106(f), substituted ''after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c) of this section, as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.'' for ''only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.''

Subsec. (d)(3). Pub. L. 102–550, § 185(b), added par. (3) relating to use of escrow savings accounts.

Pub. L. 102–550, § 106(g)(2), added par. (3) relating to a plan to offer incentives.

Subsec. (g)(3)(D) to (I). Pub. L. 102–550, § 106(h), added subpars. (D) and (I) and redesignated former subpars (D) to (G) as (E) to (H), respectively.

Subsec. (h)(2). Pub. L. 102–550, § 106(a), amended last sentence generally. Prior to amendment, last sentence read as follows: ''Of any amounts appropriated under section 1437g(c) of this title for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph.''

Subsec. (n)(3) to (6). Pub. L. 102–550, § 106(i), added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and added par. (6).

Subsec. (*o*)(2). Pub. L. 102–550, § 106(j), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 1437aa(b)(2) of this title, the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.''

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, § 405(d)(31)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(23)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Pub. L. 105–276, title V, § 509(b), Oct. 21, 1998, 112 Stat. 2531, provided that: ''The amendments made by this subsection [probably means subsec. (a), amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC SELF-SUFFICIENCY PROGRAMS

Section 554(b) of Pub. L. 101–625 directed Comptroller General to submit to Congress, not later than 18 months after Nov. 28, 1990, a report (1) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under 42 U.S.C. 1437f and public housing assistance, (2) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under 42 U.S.C. 1437f(q) to cover the additional costs of carrying out the Family Self-Sufficiency Program under this section, and (3) exam-

ining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

§ 1437v. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for projects

(a) Purposes

The purpose of this section is to provide assistance to public housing agencies for the purposes of—

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

It is also the purpose of this section to provide assistance to smaller communities for the purpose of facilitating the development of affordable housing for low-income families that is undertaken in connection with a main street revitalization or redevelopment project in such communities.

(b) Grant authority

The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

(c) Contribution requirement

(1) In general

The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L) of this section, provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) Supplemental funds

In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

(3) Exemption

If assistance provided under this subchapter will be used only for providing tenant-based assistance under section 1437f of this title or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

(d) Eligible activities

(1) In general

Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(A) architectural and engineering work;

(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

(C) the demolition, sale, or lease of the site, in whole or in part;

(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(E) payment of reasonable legal fees;

(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program, including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, an[1] economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(H) necessary management improvements;

(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 1437f of this title;

(K) transitional security activities; and

(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) Endowment trust for supportive services

In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide

[1] So in original. Probably should be ''and''.

supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) Application and selection

(1) Application

An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) Selection criteria

The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;

(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the applicant could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development and ongoing implementation of a revitalization program for the project, except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application;

(E) the need for affordable housing in the community;

(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 1437f of this title;

(G) the amount of funds and other resources to be leveraged by the grant;

(H) the extent of the need for, and the potential impact of, the revitalization program;

(I) the extent to which the plan minimizes permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community and provides for community and supportive services to residents prior to any relocation;

(J) the extent to which the plan sustains or creates more project-based housing units available to persons eligible for public housing in markets where the plan shows there is demand for the maintenance or creation of such units;

(K) the extent to which the plan gives to existing residents priority for occupancy in dwelling units which are public housing dwelling units, or for residents who can afford to live in other units, priority for those units in the revitalized community; and

(L) such other factors as the Secretary considers appropriate.

(3) Applicability of selection criteria

The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under this section to include demolition of public housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

(f) Cost limits

Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(g) Disposition and replacement

Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 1437p of this title. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 1437p of this title.

(h) Administration by other entities

The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(i) Withdrawal of funding

If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) Definitions

For purposes of this section, the following definitions shall apply:

(1) Applicant

The term ''applicant'' means—

(A) any public housing agency that is not designated as troubled pursuant to section 1437d(j)(2) of this title;

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 1437d(j)(3) of this title; and

(C) any public housing agency that is designated as troubled pursuant to section 1437d(j)(2) of this title and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) Severely distressed public housing

The term ''severely distressed public housing'' means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance;

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area; or

(III) is lacking in sufficient appropriate transportation, supportive services, economic opportunity, schools, civic and religious institutions, and public services, resulting in severe social distress in the project;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this chapter, or the programs under sections 1437g and 1437*l* of this title (as in effect before the effective date under under[2] section 503(a)[2] the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) Supportive services

The term ''supportive services'' includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) Grantee reporting

The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

***(l)* Annual report**

The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of projects identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section, including a specification of the amount and type of assistance provided under subsection (n) of this section;

(4) the types of projects funded, and number of affordable housing dwelling units developed with, grants under subsection (n) of this section; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) Funding

(1) Authorization of appropriations

There are authorized to be appropriated for grants under this section $574,000,000 for fiscal year 2003.

(2) Technical assistance and program oversight

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise, including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods[3] Networks initiative described in subsection (d)(1)(G) of this section. Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost

[2] So in original.

[3] So in original. Probably should be ''Neighborhood''.

of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(3) Set-aside for main street housing grants

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary shall provide up to 5 percent for use only for grants under subsection (n) of this section.

(n) Grants for assisting affordable housing developed through main street projects in smaller communities

(1) Authority and use of grant amounts

The Secretary may make grants under this subsection to smaller communities. Such grant amounts shall be used by smaller communities only to provide assistance to carry out eligible affordable housing activities under paragraph (4) in connection with an eligible project under paragraph (2).

(2) Eligible project

For purposes of this subsection, the term ''eligible project'' means a project that—

(A) the Secretary determines, under the criteria established pursuant to paragraph (3), is a main street project;

(B) is carried out within the jurisdiction of a smaller community receiving the grant; and

(C) involves the development of affordable housing that is located in the commercial area that is the subject of the project.

(3) Main street projects

The Secretary shall establish requirements for a project to be considered a main street project for purposes of this section, which shall require that the project—

(A) has as its purpose the revitalization or redevelopment of a historic or traditional commercial area;

(B) involves investment, or other participation, by the government for, and private entities in, the community in which the project is carried out; and

(C) complies with such historic preservation guidelines or principles as the Secretary shall identify to preserve significant historic or traditional architectural and design features in the structures or area involved in the project.

(4) Eligible affordable housing activities

For purposes of this subsection, the activities described in subsection (d)(1) of this section shall be considered eligible affordable housing activities, except that—

(A) such activities shall be conducted with respect to affordable housing rather than with respect to severely distressed public housing projects; and

(B) eligible affordable housing activities under this subsection shall not include the activities described in subparagraphs (B) through (E), (J), or (K) of subsection (d)(1) of this section.

(5) Maximum grant amount

A grant under this subsection for a fiscal year for a single smaller community may not exceed $1,000,000.

(6) Contribution requirement

A smaller community applying for a grant under this subsection shall be considered an applicant for purposes of subsection (c) of this section (relating to contributions by applicants), except that—

(A) such supplemental amounts shall be used only for carrying out eligible affordable housing activities; and

(B) paragraphs (1)(B) and (3) shall not apply to grants under this subsection.

(7) Applications and selection

(A) Application

Pursuant to subsection (e)(1) of this section, the Secretary shall provide for smaller communities to apply for grants under this subsection, except that the Secretary may establish such separate or additional criteria for applications for such grants as may be appropriate to carry out this subsection.

(B) Selection criteria

The Secretary shall establish selection criteria for the award of grants under this subsection, which shall be based on the selection criteria established pursuant to subsection (e)(2) of this section, with such changes as may be appropriate to carry out the purposes of this subsection.

(8) Cost limits

The cost limits established pursuant to subsection (f) of this section shall apply to eligible affordable housing activities assisted with grant amounts under this subsection.

(9) Inapplicability of other provisions

The provisions of subsections (g) (relating to disposition and replacement of severely distressed public housing), and (h) (relating to administration of grants by other entities) of this section, shall not apply to grants under this subsection.

(10) Reporting

The Secretary shall require each smaller community receiving a grant under this subsection to submit a report regarding the use of all amounts provided under the grant.

(11) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Affordable housing

The term ''affordable housing'' means rental or homeownership dwelling units that—

(i) are made available for initial occupancy to low-income families, with a subset of units made available to very- and extremely-low income families; and

(ii) are subject to the same rules regarding occupant contribution toward rent or purchase and terms of rental or purchase as dwelling units in public housing projects assisted with a grant under this section.

(B) Smaller community

The term ''smaller community'' means a unit of general local government (as such

term is defined in section 5302 of this title) that—

(i) has a population of 50,000 or fewer; and

(ii)(I) is not served by a public housing agency; or

(II) is served by a single public housing agency, which agency administers 100 or fewer public housing dwelling units.

(*o*) Sunset

No assistance may be provided under this section after September 30, 2006.

(Sept. 1, 1937, ch. 896, title I, § 24, as added Pub. L. 102–550, title I, § 120, Oct. 28, 1992, 106 Stat. 3695; amended Pub. L. 104–99, title IV, § 402(d)(6)(A)(vi), Jan. 26, 1996, 110 Stat. 43; Pub. L. 104–330, title V, § 501(b)(9), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, § 535(a), Oct. 21, 1998, 112 Stat. 2581; Pub. L. 106–377, § 1(a)(1) [title II, § 214(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–27; Pub. L. 108–7, div. K, title II, § 215, Feb. 20, 2003, 117 Stat. 504; Pub. L. 108–186, title IV, §§ 402(a), (b), (d), (e), 403, Dec. 16, 2003, 117 Stat. 2693, 2694.)

REFERENCES IN TEXT

Section 1437*l* of this title, referred to in subsec. (j)(2)(A)(iv), was repealed by Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (j)(2)(A)(iv), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–186, § 403(a), inserted concluding provisions.

Subsec. (e)(2). Pub. L. 108–186, § 402(a)(1), substituted ''The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—'' for ''The Secretary shall establish selection criteria for the award of grants under this section and shall include such factors as—'' in introductory provisions.

Subsec. (e)(2)(B). Pub. L. 108–186, § 402(a)(2), struck out ''large-scale'' after ''for managing''.

Subsec. (e)(2)(D). Pub. L. 108–186, § 402(a)(3), inserted ''and ongoing implementation'' after ''development'' and '', except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application'' before semicolon at end.

Subsec. (e)(2)(I) to (L). Pub. L. 108–186, § 402(a)(4)–(6), added subpars. (I) to (K) and redesignated former subpar. (I) as (L).

Subsec. (j)(2)(A)(iii)(III). Pub. L. 108–186, § 402(b), added subcl. (III).

Subsec. (*l*)(3). Pub. L. 108–186, § 403(c)(1), substituted '', including a specification of the amount and type of assistance provided under subsection (n) of this section;'' for ''; and''.

Subsec. (*l*)(4), (5). Pub. L. 108–186, § 403(c)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (m)(1). Pub. L. 108–186, § 402(d), which directed substitution of ''through 2006'' for '', 2001, and 2002'' could not be executed because the words '', 2001, and 2002'' did not appear subsequent to amendment by Pub. L. 108–7, § 215(a). See below.

Pub. L. 108–7, § 215(a), substituted ''$574,000,000 for fiscal year 2003'' for ''$600,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000, 2001, and 2002''.

Subsec. (m)(3). Pub. L. 108–186, § 403(d), added par. (3).

Subsec. (n). Pub. L. 108–186, § 403(b)(2), added subsec. (n). Former subsec. (n) redesignated (*o*).

Pub. L. 108–186, § 402(e), substituted ''September 30, 2006'' for ''September 30, 2004''.

Pub. L. 108–7, § 215(b), substituted ''September 30, 2004'' for ''September 30, 2002''.

Subsec. (*o*) Pub. L. 108–186, § 403(b)(1), redesignated subsec. (n) as (*o*).

2000—Subsec. (d)(1)(G). Pub. L. 106–377, § 1(a)(1) [title II, § 214(b)(1)], inserted before semicolon '', including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, an economic self-reliance of public housing residents by providing them with onsite computer access and training resources''.

Subsec. (m)(2). Pub. L. 106–377, § 1(a)(1) [title II, § 214(b)(2)], inserted before period at end of first sentence '', including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods Networks initiative described in subsection (d)(1)(G) of this section''.

1998—Pub. L. 105–276 amended section generally. Prior to amendment, section authorized planning grants for development of revitalization programs for severely distressed public housing and implementation grants to carry out revitalization programs for such housing, authorized exceptions to general program rules, established Office of Severely Distressed Public Housing Revitalization, and required annual report to Congress.

1996—Subsec. (e). Pub. L. 104–99 temporarily substituted ''Exception'' for ''Exceptions'' in subsec. heading and struck out ''(1) LONG-TERM VIABILITY.—'' before ''The Secretary may waive'' and par. (2) which read as follows:

''(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 1437d(c)(4)(A)(i) of this title. Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (h)(3). Pub. L. 104–330 struck out '', except that it does not include any Indian housing authority'' after ''section 1437a(b) of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, § 535(b), Oct. 21, 1998, 112 Stat. 2586, provided that: ''The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].''

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which item 11 on page 104 identifies a reporting provision which, as subsequently

amended, is contained in subsec. (*l*) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

STUDY OF ELDERLY AND DISABLED PUBLIC HOUSING NEEDS

Pub. L. 108–186, title IV, § 402(c), Dec. 16, 2003, 117 Stat. 2694, provided that: ''Not later than 18 months after the date of enactment of this Act [Dec. 16, 2003], the Comptroller General of the United States shall submit a report to Congress regarding the extent of severely distressed elderly and non-elderly disabled public housing, and recommendations for improving that housing through the HOPE VI program or other means, taking into account the special needs of the residents.''

§ 1437w. Transfer of management of certain housing to independent manager at request of residents

(a) Authority

The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h) of this section) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b) of this section; and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b) of this section, determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) Request for transfer

The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) Capital and operating assistance

Pursuant to a contract under subsection (d) of this section, the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 1437g of this title for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 1437g of this title. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) Contract between Secretary and manager

(1) Requirements

Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) Terms

A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this chapter applicable to public housing projects.

(e) Compliance with public housing agency plan

A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) Demolition and disposition by manager

A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) Limitation on PHA liability

A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Eligible management entity

The term ''eligible management entity'' means, with respect to any public housing project, any of the following entities:

(A) Nonprofit organization

A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) For-profit entity

A for-profit entity that has demonstrated experience in providing low-income housing.

(C) State or local government

A State or local government, including an agency or instrumentality thereof.

(D) Public housing agency

A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) Manager

The term ''manager'' means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) Nonprofit

The term ''nonprofit'' means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) Private nonprofit organization

The term ''private nonprofit organization'' means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) Public nonprofit organization

The term ''public nonprofit organization'' means any public entity that is nonprofit in character.

(6) Specified housing

The term ''specified housing'' means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

(Sept. 1, 1937, ch. 896, title I, § 25, as added Pub. L. 105–276, title V, § 534, Oct. 21, 1998, 112 Stat. 2579.)

PRIOR PROVISIONS

A prior section 1437w, act Sept. 1, 1937, ch. 896, title I, § 25, as added Pub. L. 102–550, title I, § 121(b), Oct. 28, 1992, 106 Stat. 3701; amended Pub. L. 104–330, title V, § 501(b)(10), Oct. 26, 1996, 110 Stat. 4042, known as the Choice in Public Housing Management Act of 1992, related to choice in public housing management, prior to repeal by Pub. L. 105–276, title V, §§ 503, 534, Oct. 21, 1998, 112 Stat. 2521, 2579, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision.

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437x. Environmental reviews

(a) In general

(1) Release of funds

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this subchapter, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) Implementation

The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) Procedure

The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c) of this section. The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) Certification

A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a) of this section; and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a) of this section; and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

(d) Approval by States

In cases in which a unit of general local government carries out the responsibilities described in subsection (c) of this section, the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) of this section and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b) of this section.

(Sept. 1, 1937, ch. 896, title I, § 26, as added Pub. L. 103–233, title III, § 305(b), Apr. 11, 1994, 108 Stat. 371; amended Pub. L. 104–330, title V, § 501(b)(11), Oct. 26, 1996, 110 Stat. 4042.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b), and (c)(4)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsecs. (a)(1), (b). Pub. L. 104–330 struck out ''(including an Indian housing authority)'' after ''public housing agency''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437y. Provision of information to law enforcement and other agencies

Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the ''Service''), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is not lawfully present in the United States, and shall ensure that each contract for assistance entered into under section 1437d or 1437f of this title with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is not lawfully present in the United States.

(Sept. 1, 1937, ch. 896, title I, § 27, as added Pub. L. 104–193, title IV, § 404(d), Aug. 22, 1996, 110 Stat. 2267; amended Pub. L. 105–33, title V, § 5564, Aug. 5, 1997, 111 Stat. 639.)

CODIFICATION

Another section 27 of act Sept. 1, 1937, was renumbered section 28, and is classified to section 1437z of this title.

AMENDMENTS

1997—Pub. L. 105–33 substituted ''not lawfully present in the United States'' for ''unlawfully in the United States'' in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5582 of Pub. L. 105–33, set out as a note under section 1367 of Title 8, Aliens and Nationality.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1437z. Exchange of information with law enforcement agencies

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 1437d or 1437f of this title with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this chapter, if the officer—

(1) furnishes the public housing agency with the name of the recipient; and

(2) notifies the agency that—

(A) such recipient—

(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(ii) is violating a condition of probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct the officer's official duties;

(B) the location or apprehension of the recipient is within such officer's official duties; and

(C) the request is made in the proper exercise of the officer's official duties.

(Sept. 1, 1937, ch. 896, title I, § 28, formerly § 27, as added Pub. L. 104–193, title IX, § 903(b), Aug. 22, 1996, 110 Stat. 2348; renumbered § 28, Pub. L. 105–65, title V, § 562(a)(1), Oct. 27, 1997, 111 Stat. 1416.)

§ 1437z–1. Civil money penalties against section 1437f owners

(a) In general

(1) Effect on other remedies

The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) Failure of Secretary

The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) Violations of housing assistance payment contracts for which penalty may be imposed

(1) Liable parties

The Secretary may impose a civil money penalty under this section on—

(A) any owner of a property receiving project-based assistance under section 8 [42 U.S.C. 1437f];

(B) any general partner of a partnership owner of that property; and

(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) Violations

A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

(A) failure to provide decent, safe, and sanitary housing pursuant to section 8 [42 U.S.C. 1437f]; or

(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) Amount of penalty

The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

(c) Agency procedures

(1) Establishment

The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b) of this section. These standards and procedures—

(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d) of this section.

(2) Final orders

(A) In general

If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) of this section shall constitute a final and unappealable determination.

(B) Effect of review

If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) Failure to review

If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (b) of this section, the Secretary shall take into consideration—

(A) the gravity of the offense;

(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

(C) the ability of the violator to pay the penalty;

(D) any injury to tenants;

(E) any injury to the public;

(F) any benefits received by the violator as a result of the violation;

(G) deterrence of future violations; and

(H) such other factors as the Secretary may establish by regulation.

(4) Payment of penalty

No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) Judicial review of agency determination

Judicial review of determinations made under this section shall be carried out in accordance with section 1735f–15(e) of title 12.

(e) Remedies for noncompliance

(1) Judicial intervention

(A) In general

If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b) of this section, after the determination or order is no longer subject to review as provided by subsections (c) and (d) of this section, the Secretary may request the Attorney General of the United States to bring an action in an appropriate United

States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) Fees and expenses

Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) Nonreviewability of determination or order

In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) Deposit of penalties

(1) In general

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this chapter, as determined by the Secretary.

(2) Exception

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) Definitions

In this section—

(1) the term ''agent employed to manage the property that has an identity of interest'' means an entity—

(A) that has management responsibility for a project;

(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(C) over which such ownership entity exerts effective control; and

(2) the term ''knowing'' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(Sept. 1, 1937, ch. 896, title I, § 29, as added Pub. L. 105–65, title V, § 562(a)(2), Oct. 27, 1997, 111 Stat. 1416.)

EFFECTIVE DATE

Section 562(b) of Pub. L. 105–65 provided that: ''The amendments made by subsection (a) [enacting this section and amending section 1437z of this title] shall apply only with respect to—

''(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

''(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.''

REGULATIONS

Section 562(c) of Pub. L. 105–65 provided that:

''(1) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall implement the amendments made by this section [enacting this section and amending section 1437z of this title] by regulation issued after notice and opportunity for public comment.

''(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of the term 'agent employed to manage such property that has an identity of interest'.

''(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act [Oct. 27, 1997].''

§ 1437z–2. Public housing mortgages and security interests

(a) General authorization

The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) Terms and conditions

In making any authorization under subsection (a) of this section, the Secretary may consider—

(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

(3) such other criteria as the Secretary may specify.

(c) No Federal liability

No action taken under this section shall result in any liability to the Federal Government.

(Sept. 1, 1937, ch. 896, title I, § 30, as added Pub. L. 105–276, title V, § 516, Oct. 21, 1998, 112 Stat. 2550.)

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–3. Pet ownership in public housing

(a) Ownership conditions

A resident of a dwelling unit in public housing (as such term is defined in subsection (c) of this section) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains

each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) Reasonable requirements

The reasonable requirements referred to in subsection (a) of this section may include—

(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) Pet ownership in public housing designated for occupancy by elderly or handicapped families

For purposes of this section, the term ''public housing'' has the meaning given the term in section 1437a(b) of this title, except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 1701r–1(d) of title 12.

(d) Regulations

This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5 applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(Sept. 1, 1937, ch. 896, title I, § 31, as added Pub. L. 105–276, title V, § 526, Oct. 21, 1998, 112 Stat. 2568.)

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–4. Resident homeownership programs

(a) In general

A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) Participating units

A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) Eligible purchasers

(1) Low-income requirement

Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) Other requirements

A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) Right of first refusal

In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) Protection of nonpurchasing residents

If a public housing resident does not exercise the right of first refusal under subsection (d) of this section with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(A) the public housing unit will be sold;

(B) the transfer of possession of the unit will occur until the resident is relocated; and

(C) each resident displaced by such action will be offered comparable housing—

(i) that meets housing quality standards;

(ii) that is located in an area that is generally not less desirable than the location of the displaced resident's housing; and

(iii) which may include—

(I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such resident into such housing;

(II) project-based assistance; or

(III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) Financing and assistance

A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) Downpayment requirement

(1) In general

Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) Direct family contribution

In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) Ownership interests

A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

(i) Resale

(1) Authority and limitation

A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) Considerations

The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) Net proceeds

The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) Homeownership assistance

From amounts distributed to a public housing agency under the Capital Fund under section 1437g(d) of this title, or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(*l*) Inapplicability of disposition requirements

The provisions of section 1437p of this title shall not apply to disposition of public housing dwelling units under a homeownership program under this section.

(Sept. 1, 1937, ch. 896, title I, § 32, as added Pub. L. 105–276, title V, § 536, Oct. 21, 1998, 112 Stat. 2586.)

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–5. Required conversion of distressed public housing to tenant-based assistance

(a) Identification of units

Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) The project is on the same or contiguous sites.

(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).

(3) The project—

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 1437f of this title for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

(b) Consultation

Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a) of this section.

(c) Plan for removal of units from inventories of PHAs

(1) Development

Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) of this section from the inventory of the public housing agency and the annual contributions contract.

(2) Approval

Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

(C) include a description of any disposition and demolition plan for the public housing units.

(3) Extensions

The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) Review by Secretary

(A) Failure to identify projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a) of this section, the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) Erroneous identification of projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a) of this section, the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) Conversion to tenant-based assistance

(1) In general

To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this chapter to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) Conversion requirements

Each agency carrying out a plan under subsection (c) of this section for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards; and

(II) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) Cessation of unnecessary spending

Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a) of this section, the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) Use of budget authority

Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a) of this section, the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 1437*l* of this title (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 1437*l* of this title, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;

(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 1437c(j)(2) of this title, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998; and

(4) in the case of an agency receiving assistance pursuant to the formulas under section 1437g of this title, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) Removal by Secretary

The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) of this section from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) of this section with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) Administration

(1) In general

The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

(2) Applicability of section 1437p

Section 1437p of this title shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.

(Sept. 1, 1937, ch. 896, title I, § 33, as added Pub. L. 105–276, title V, § 537(a), Oct. 21, 1998, 112 Stat. 2588.)

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1992, referred to in subsec. (c)(2)(B), is title I of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3681. For complete classification of title I to the Code, see Tables.

Section 1437*l* of this title, referred to in subsec. (f)(1), (2), was repealed by Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (f)(1), (3), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

TRANSITION

Pub. L. 105–276, title V, § 537(c), Oct. 21, 1998, 112 Stat. 2592, provided that:

"(1) USE OF AMOUNTS.—Any amounts made available to a public housing agency to carry out section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134; 110 Stat. 1321–279)) [former 42 U.S.C. 1437*l* note] may be used, to the extent or in such amounts as are or have been provided in advance in appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 [42 U.S.C. 1437z–5] (as added by subsection (a) of this section).

"(2) SAVINGS PROVISION.—Notwithstanding the amendments made by this section [enacting this section and repealing provisions set out as a note under section 1437*l* of this title], section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 [1437*l*] note) and any regulations implementing such section, as in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act."

§ 1437z–6. Services for public and Indian housing residents

(a) In general

To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, recipients under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.] (notwithstanding section 502 of such Act [25 U.S.C. 4181]) on behalf of residents of housing assisted under such Act, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents and residents of housing assisted under such Act or assist such residents in becoming economically self-sufficient.

(b) Eligible activities

Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project or the property of a recipient under such Act or housing assisted under such Act that are designed to promote the self-sufficiency of public housing residents or residents of housing assisted under such Act or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project or residents of housing assisted under such Act in order to provide space for supportive services for residents;

(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

(5) resident management activities and resident participation activities; and

(6) other activities designed to improve the economic self-sufficiency of residents.

(c) Funding distribution

(1) In general

Except for amounts provided under subsection (d) of this section, the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

(2) Factors for distribution

Factors for distribution under paragraph (1) shall include—

(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

(B) the ability of the applicant to leverage additional resources for the provision of services; and

(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

(d) Matching requirement

The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

(1) funds from other Federal sources;

(2) funds from any State, local, or tribal government sources;

(3) funds from private contributions; and

(4) the value of any in-kind services or administrative costs provided to the applicant.

(e) Funding for resident organizations

To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.

(Sept. 1, 1937, ch. 896, title I, § 34, as added Pub. L. 105–276, title V, § 538(a), Oct. 21, 1998, 112 Stat. 2592; amended Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A–29.)

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsecs. (a) and (b), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§ 4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

AMENDMENTS

2000—Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(1)], substituted ''public and Indian housing'' for ''public housing'' in section catchline.

Subsec. (a). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(2)], inserted ''recipients under the Native American Housing Assistance and Self-Determination Act of 1996 (notwithstanding section 502 of such Act) on behalf of residents of housing assisted under such Act,'' after ''on behalf of public housing residents,'' and inserted ''and residents of housing assisted under such Act'' after ''supportive services to public housing residents''.

Subsec. (b). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(3)(A), (B)], in introductory provisions, inserted ''or the property of a recipient under such Act or housing assisted under such Act'' after ''public housing project'' and ''or residents of housing assisted under such Act'' after ''public housing residents''.

Subsec. (b)(1). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(3)(C)], inserted ''or residents of housing assisted under such Act'' after ''public housing project''.

Subsec. (d)(2). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(4)], substituted ''State, local, or tribal government'' for ''State or local government''.

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

ASSESSMENT AND REPORT BY SECRETARY

Pub. L. 105–276, title V, § 538(b), Oct. 21, 1998, 112 Stat. 2594, as amended by Pub. L. 106–377, § 1(a)(1) [title II, § 221(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–29, provided that: ''Not later than 3 years after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [Oct. 21, 1998], the Secretary of Housing and Urban Development shall—

''(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing and housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]; and

''(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

''This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998].''

§ 1437z–7. Mixed-finance public housing

(a) Authority

A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) Assistance

(1) Forms

A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 1437g of this title, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) Use

To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

(c) Compliance with public housing requirements

The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this chapter relating to public housing during the period required by under[1] this chapter, unless otherwise specified in this section. For purposes of this chapter, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

(d) Mixed-finance projects

(1) In general

For purposes of this section, the term ''mixed-finance project'' means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this chapter.

(2) Types of projects

The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of title 26; or

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) Structure of projects

Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

[1] So in original.

(f) Taxation

(1) In general

A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 1437d(d) of this title, and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 1437c(e)(1)(ii) and 1437c(e)(2) of this title, but only if the development of the units is not inconsistent with the jurisdiction's comprehensive housing affordability strategy.

(2) Low-income housing tax credit

With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of title 26, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 1437a of this title.

(g) Use of savings

Notwithstanding any other provision of this chapter, to the extent deemed appropriate by the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) Effect of certain contract terms

If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this chapter for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 1437g of this title or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this chapter regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.

(Sept. 1, 1937, ch. 896, title I, § 35, as added Pub. L. 105–276, title V, § 539[(a)], Oct. 21, 1998, 112 Stat. 2594.)

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

REGULATIONS

Pub. L. 105–276, title V, § 539(b), Oct. 21, 1998, 112 Stat. 2596, provided that: "The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)] (as amended by this Act)."

SUBCHAPTER II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

§§ 1437aa to 1437ee. Repealed. Pub. L. 104–330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041

Section 1437aa, act Sept. 1, 1937, ch. 896, title II, § 201, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 676; amended Nov. 28, 1990, Pub. L. 101–625, title V, § 572(2), 104 Stat. 4236; Oct. 28, 1992, Pub. L. 102–550, title I, § 122(a), 106 Stat. 3708, related to establishment of separate program of assisted housing for Indians and Alaska Natives.

Section 1437bb, act Sept. 1, 1937, ch. 896, title II, § 202, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 676; amended Nov. 28, 1990, Pub. L. 101–625, title V, §§ 516, 572(1), 104 Stat. 4199, 4236; Oct. 28, 1992, Pub. L. 102–550, title I, § 122(b), 106 Stat. 3709, related to mutual help homeownership opportunity program.

Section 1437cc, act Sept. 1, 1937, ch. 896, title II, § 203, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 679; amended Nov. 28, 1990, Pub. L. 101–625, title V, § 572(2), 104 Stat. 4236; Oct. 28, 1992, Pub. L. 102–550, title I, § 122(c), 106 Stat. 3709, related to public housing maximum contributions, provision of related facilities and services, and accessibility to physically handicapped persons.

Section 1437dd, act Sept. 1, 1937, ch. 896, title II, § 204, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 679; amended Nov. 28, 1990, Pub. L. 101–625, title V, § 572(1), 104 Stat. 4236, related to annual report under section 3536 of this title.

Section 1437ee, act Sept. 1, 1937, ch. 896, title II, § 205, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 680, related to issuance of regulations to carry out this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437ff. Transferred

CODIFICATION

Section, Pub. L. 101–625, title IX, § 959, Nov. 28, 1990, 104 Stat. 4423, which related to waiver of matching funds requirements in Indian housing programs, was transferred to section 4104 of Title 25, Indians.

SUBCHAPTER II–A—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

AMENDMENTS

1996—Pub. L. 104–330, title V, § 501(c)(1), Oct. 26, 1996, 110 Stat. 4042, added subchapter heading and struck out former subchapter heading which read as follows: "HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP".

§ 1437aaa. Program authority

(a) In general

The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with this subchapter; and

(2) implementation grants to carry out homeownership programs in accordance with this subchapter.

(b) Authority to reserve housing assistance

In connection with a grant under this subchapter, the Secretary may reserve authority to provide assistance under section 1437f of this title to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(Sept. 1, 1937, ch. 896, title III, § 301, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4148; amended Pub. L. 102–550, title I, § 181(a)(2)(A), Oct. 28, 1992, 106 Stat. 3735.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–550 struck out subsec. (c) which read as follows: ''There are authorized to be appropriated for grants under this subchapter $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended.''

SHORT TITLE

Section 401 of title IV of Pub. L. 101–625 provided that: ''This title [enacting this subchapter and subchapter IV (§ 12871 et seq.) of chapter 130 of this title, amending sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section and sections 1437c and 1437aa of this title] may be cited as the 'Homeownership and Opportunity Through HOPE Act'.''

ESTABLISHMENT AND IMPLEMENTATION OF REQUIREMENTS BY SECRETARY

Section 418 of Pub. L. 101–625 provided that: ''Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 [this subchapter] first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle [subtitle A (§§ 411–419) of title IV of Pub. L. 101–625, enacting this subchapter, amending sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of this title, and enacting provisions set out as notes under sections 1437c and 1437aa of this title]. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.''

§ 1437aaa–1. Planning grants

(a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subchapter. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants related to development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this subchapter.

(c) Application

(1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 794 of title 29, and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the project;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subchapter in an effective and efficient manner.

(Sept. 1, 1937, ch. 896, title III, § 302, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4149; amended Pub. L. 102–550, title X, § 1012(h)(1), Oct. 28, 1992, 106 Stat. 3906.)

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

§ 1437aaa–2. Implementation grants

(a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subchapter.

(b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subchapter, including the following activities:

(1) Architectural and engineering work.

(2) Implementation of the homeownership program, including acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subchapter.

(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 1437aaa–1 of this title for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance from the Operating Fund, with adjustments comparable to those that would have been made under section 1437g of this title, and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program.

(11) Implementation of a replacement housing plan.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) Matching funding

(1) In general

Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses and replacement housing, shall be provided from non-Federal sources to carry out the homeownership program.

(2) Form

Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 5306(b) of this title or section 5306(d) of this title;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) of this title or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subchapter;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subchapter; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(3) Reduction of requirement

The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12750(d)].

(d) Application

(1) Form and procedure

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 1437f of this title, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

(D) a description of the proposed homeownership program, consistent with section 1437aaa–3 of this title and the other requirements of this subchapter, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 1437aaa–3(b) of this title;

(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) of this section and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

(I) the estimated sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705] that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 794 of title 29, and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(e) Selection criteria

The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705(b)(7)];

(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

(8) the extent to which a sufficient supply of affordable rental housing exists in the locality, so that the implementation of the home-

ownership program will not reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) Location within participating jurisdictions

The Secretary may approve applications for grants under this subchapter only for public housing projects located within the boundaries of jurisdictions—

(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

(g) Approval

The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 [42 U.S.C. 1437f] assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(Sept. 1, 1937, ch. 896, title III, § 303, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4150; amended Pub. L. 102–550, title I, § 181(b), (c), (g)(1), title X, § 1012(h)(2), Oct. 28, 1992, 106 Stat. 3735, 3736, 3906; Pub. L. 105–276, title V, § 519(c)(1), Oct. 21, 1998, 112 Stat. 2561.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b) (introductory provisions) and (c)(2)(C), (E), was in the original ''this subtitle'', and was translated as reading ''this title'', meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

The Fair Housing Act, referred to in subsec. (d)(2)(M), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I of chapter 45 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(M), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(M), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (f)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title III of the Act enacted subchapter III (§ 12851 et seq.) of chapter 130 of this title and sections 1735f–17 and 1735f–18 of Title 12, Banks and Banking, amended sections 1703, 1708, 1709, 1715d, 1715z–20, 1721, and 1735f–9 of Title 12, and enacted provisions set out as notes under sections 1703, 1709, 1713, and 1735f–18 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(10). Pub. L. 105–276 substituted ''such assistance from the Operating Fund'' for ''such assistance under section 1437g of this title''.

1992—Subsec. (b)(2). Pub. L. 102–550, § 181(g)(1)(A), struck out ''(not including scattered site single family housing of a public housing agency)'' after ''public housing project''.

Subsec. (b)(4) to (8). Pub. L. 102–550, § 1012(h)(2), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 102–550, § 1012(h)(2)(A), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 102–550, § 181(g)(1)(B), which directed insertion of '', and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program'' before period at end of section ''303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(9))'', was executed by making the insertion before period at end of subsec. (b)(9) of this section, which is section 303 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (b)(10) to (14). Pub. L. 102–550, § 1012(h)(2)(A), redesignated pars. (9) to (13) as (10) to (14), respectively.

Subsec. (c)(1). Pub. L. 102–550, § 181(b)(1), inserted ''and replacement housing'' after ''expenses''.

Subsec. (c)(3). Pub. L. 102–550, § 181(b)(2), added par. (3).

Subsec. (e)(8). Pub. L. 102–550, § 181(c), struck out ''of the type assisted under this subchapter'' after ''rental housing'' and ''appreciably'' before ''reduce''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§ 1437aaa–3. Homeownership program requirements

(a) In general

A homeownership program under this subchapter shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability

A homeownership program under this subchapter shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) Plan

A homeownership program under this subchapter shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

(4) providing ongoing training and counseling for homebuyers and homeowners; and

(5) replacing units in eligible projects covered by a homeownership program.

(d) Acquisition and rehabilitation limitations

Acquisition or rehabilitation of public housing projects under a homeownership program under this subchapter may not consist of acquisition or rehabilitation of less than the whole public housing project in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) Financing

(1) In general

The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(2) Prohibition against pledges

Property transferred under this subchapter shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) of this section or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subchapter.

(3) Opportunity to cure

Any lender that provides financing in connection with a homeownership program under this subchapter shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) Housing quality standards

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this subchapter.

(g) Repealed. Pub. L. 105–276, title V, § 531(b)(1), Oct. 21, 1998, 112 Stat. 2573

(h) Protection of non-purchasing families

(1) In general

No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subchapter.

(2) Replacement assistance

If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 1437a(a) of this title or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 [42 U.S.C. 1437f] assistance for use in other housing.

(3) Relocation assistance

The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(4) Other rights

Tenants renting a unit in a project transferred under this subchapter shall have all rights provided to tenants of public housing under this chapter.

(Sept. 1, 1937, ch. 896, title III, § 304, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4153; amended Pub. L. 102–550, title I, § 181(g)(1)(A), Oct. 28, 1992, 106 Stat. 3736; Pub. L. 104–19, title I, § 1002(b), July 27, 1995, 109 Stat. 236; Pub. L. 105–276, title V, § 531(b)(1), Oct. 21, 1998, 112 Stat. 2573.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

This subchapter, referred to in subsec. (e)(3), was in the original ''this subtitle'', and was translated as reading ''this title'', meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–276 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing. See 1995 Amendment note below.

1995—Subsec. (g). Pub. L. 104–19 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing.

1992—Subsec. (d). Pub. L. 102–550 struck out ''(not including scattered site single family housing of a public housing agency)'' after ''housing project''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 531(b)(1) of Pub. L. 105–276 effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by Secretary after Sept. 30, 1995, see section 531(b)(2) of Pub. L. 105–276, set out as a note below.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–19 effective for applications for demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995, and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104–19, as amended, set out as a note under section 1437c of this title.

HOMEOWNERSHIP REPLACEMENT PLAN

Pub. L. 105–276, title V, § 531(b), Oct. 21, 1998, 112 Stat. 2573, provided that:

''(1) IN GENERAL.—Notwithstanding subsections (b) and (c) of section 1002 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 [amending this section and enacting provision set out as a note under section 1437c of this title] (Public Law 104–19; 109 Stat. 236), subsection (g) of section 304 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–3(g)) is repealed.

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995.''

§ 1437aaa–4. Other program requirements

(a) Sale by public housing agency to applicant or other entity required

Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

(b) Preferences

In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(c) Cost limitations

The Secretary may establish cost limitations on eligible activities under this subchapter, subject to the provisions of this subchapter.

(d) Annual contributions

Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 1437c(a) of this title.

(e) Amounts from Operating Fund allocation

Amounts from an allocation from the Operating Fund under section 1437g of this title shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

(f) Use of proceeds from sales to eligible families

The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(g) Restrictions on resale by homeowners

(1) In general

(A) Transfer permitted

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 years

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subchapter, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) Third party rights

The requirements under this subchapter regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) Dollar limitation on economic development activities

Not more than an aggregate of $250,000 from amounts made available under sections 1437aaa–1 and 1437aaa–2 of this title may be used for economic development activities under sections 1437aaa–1(b)(6)[1] and 1437aaa–2(b)(9)[1] of this title for any project.

(j) Timely homeownership

Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) Capability of resident management corporations and resident councils

To be eligible to receive a grant under section 1437aaa–2 of this title, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(*l*) Records and audit of recipients of assistance

(1) In general

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subchapter (and any proceeds from financing obtained in accordance with subsection (b) of this section or sales under subsections (f) and (g)(4) of this section), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by the Secretary

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

(3) Access by the Comptroller General

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

(Sept. 1, 1937, ch. 896, title III, § 305, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104

[1] See References in Text note below.

Stat. 4155; amended Pub. L. 105–276, title V, § 519(c)(2), Oct. 21, 1998, 112 Stat. 2561.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (g)(4), was in the original ''this subtitle'', and was translated as reading ''this title'', meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

Section 1437aaa–1(b)(6) of this title, referred to in subsec. (i), was redesignated section 1437aaa–1(b)(7) of this title by Pub. L. 102–550, title X, § 1012(h)(1)(A), Oct. 28, 1992, 106 Stat. 3906.

Section 1437aaa–2(b)(9) of this title, referred to in subsec. (i), was redesignated section 1437aaa–2(b)(10) of this title by Pub. L. 102–550, title X, § 1012(h)(2)(A), Oct. 28, 1992, 106 Stat. 3906.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–276 substituted ''Amounts from an allocation from the Operating Fund'' for ''Operating subsidies''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§ 1437aaa–5. Definitions

For purposes of this subchapter:

(1) The term ''applicant'' means the following entities that may represent the tenants of the project:

(A) A public housing agency.

(B) A resident management corporation, established in accordance with requirements of the Secretary under section 1437r of this title.

(C) A resident council.

(D) A cooperative association.

(E) A public or private nonprofit organization.

(F) A public body, including an agency or instrumentality thereof.

(2) The term ''eligible family'' means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term ''homeownership program'' means a program for homeownership meeting the requirements under this subchapter.

(4) The term ''recipient'' means an applicant approved to receive a grant under this subchapter or such other entity specified in the approved application that will assume the obligations of the recipient under this subchapter.

(5) The term ''resident council'' means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(Sept. 1, 1937, ch. 896, title III, § 306, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4158; amended Pub. L. 104–330, title V, § 501(c)(2), Oct. 26, 1996, 110 Stat. 4042.)

AMENDMENTS

1996—Par. (1)(A). Pub. L. 104–330, § 501(c)(2)(A), struck out ''(including an Indian housing authority)'' after ''agency''.

Par. (2)(A). Pub. L. 104–330, § 501(c)(2)(B), struck out ''or Indian'' after ''public''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437aaa–6. Relationship to other homeownership opportunities

The program authorized under this subchapter shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 1437c(h)[1] of this title.

(Sept. 1, 1937, ch. 896, title III, § 307, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4159; amended Pub. L. 104–330, title V, § 501(c)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, § 518(a)(2)(C), Oct. 21, 1998, 112 Stat. 2551.)

REFERENCES IN TEXT

Section 1437c(h) of this title, referred to in text, was repealed and a new section 1437c(h), relating to audits, was added by Pub. L. 105–276, title V, §§ 518(a)(1)(A), 566, Oct. 21, 1998, 112 Stat. 2551, 2632. See 1998 Amendment note below.

AMENDMENTS

1998—Pub. L. 105–276, which directed amendment of text by striking out ''section 5(h) and'' in original (a reference to section 1437c(h) of this title), could not be executed because the word ''and'' does not appear.

1996—Pub. L. 104–330 struck out ''and subchapter II of this chapter'' after ''section 1437c(h) of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437aaa–7. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this sub-

[1] See References in Text note below.

chapter, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Sept. 1, 1937, ch. 896, title III, § 308, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4159.)

§ 1437aaa–8. Annual report

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type, and cost of public housing units sold pursuant to this subchapter;

(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this subchapter;

(3) the amount and type of financial assistance provided under and in conjunction with this subchapter;

(4) the amount of financial assistance provided under this subchapter that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

(Sept. 1, 1937, ch. 896, title III, § 309, as added Pub. L. 101–625, title IV, § 411, Nov. 28, 1990, 104 Stat. 4159.)

SUBCHAPTER II–B—HOME RULE FLEXIBLE GRANT DEMONSTRATION

§ 1437bbb. Purpose

The purpose of this subchapter is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

(1) to receive and combine program allocations of covered housing assistance; and

(2) to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—

(A) provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

(C) increase the stock of affordable housing and housing choices for low-income families;

(D) increase homeownership among low-income families;

(E) reduce geographic concentration of assisted families;

(F) reduce homelessness through providing permanent housing solutions;

(G) improve program management; and

(H) achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies;[1]

(Sept. 1, 1937, ch. 896, title IV, § 401, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2616.)

EFFECTIVE DATE

Act Sept. 1, 1937, ch. 896, title IV, § 411, as added by Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2624, provided that: ''This title [enacting this subchapter] shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [Oct. 21, 1998].''

§ 1437bbb–1. Flexible grant program

(a) Authority and use

The Secretary shall carry out a demonstration program in accordance with the purposes under section 1437bbb of this title and the provisions of this subchapter. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction's participation—

(1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;

(2) to reduce homelessness through providing permanent housing solutions;

(3) to increase homeownership among low-income families; or

(4) for other housing purposes for low-income families determined by the participating jurisdiction.

(b) Period of participation

A jurisdiction may participate in the demonstration program under this subchapter for a period consisting of not less than 1 nor more than 5 fiscal years.

(c) Participating jurisdictions

(1) In general

Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this subchapter not more than an aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this subchapter in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

(2) Exclusion of high performing agencies

Notwithstanding any other provision of this subchapter other than paragraph (4) of this subsection, the Secretary may approve for

[1] So in original. The semicolon probably should be a period.

participation in the demonstration program under this subchapter only jurisdictions served by public housing agencies that—

(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies), as of the time of approval; and

(B) have a most recent score under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

(3) Limitation on troubled and non-troubled PHAs

Of the jurisdictions approved by the Secretary for participation in the demonstration program under this subchapter—

(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies); and

(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies).

(4) Exception

If the City of Indianapolis, Indiana submits an application for participation in the program under this subchapter and, upon review of the application under section 1437bbb–5(b) of this title, the Secretary determines that such application is approvable under this subchapter, the Secretary shall approve such application, notwithstanding the second sentence of section 1437bbb–5(b)(2) of this title. Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of this subsection, but the provisions of paragraph (2) of this subsection (relating to exclusion of high-performing agencies) shall not apply to such City.

(Sept. 1, 1937, ch. 896, title IV, § 402, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2617.)

§ 1437bbb–2. Program allocation and covered housing assistance

(a) Program allocation

In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this subchapter shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this chapter to the public housing agency for the jurisdiction.

(b) Covered housing assistance

For purposes of this subchapter, the term ''covered housing assistance'' means—

(1) operating assistance under section 1437g of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(2) modernization assistance under section 1437*l* of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(3) assistance for the certificate and voucher programs under section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(4) assistance from the Operating Fund under section 1437g(e) of this title;

(5) assistance from the Capital Fund under section 1437g(d) of this title; and

(6) tenant-based assistance under section 1437f of this title (as amended by the Quality Housing and Work Responsibility Act of 1998).

(Sept. 1, 1937, ch. 896, title IV, § 403, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2618.)

REFERENCES IN TEXT

The Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b), is title V of Pub. L. 105–276, Oct. 21, 1998, 112 Stat. 2518. Section 503(a) of the Act is set out as an Effective Date of 1998 Amendment note under section 1437 of this title. For complete classification of this Act to the Code, see Tables.

Section 1437*l* of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

§ 1437bbb–3. Applicability of requirements under programs for covered housing assistance

(a) In general

In each fiscal year of the demonstration program under this subchapter, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this chapter pursuant to which covered housing assistance is otherwise made available under this chapter to the public housing agency for the jurisdiction, except that—

(1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this subchapter; and

(2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 1437f and 1437g of this title.

(b) Number of families assisted

In carrying out the demonstration program under this subchapter, each participating jurisdiction shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this subchapter.

(c) Protection of recipients

This subchapter may not be construed to authorize the termination of assistance to any recipient receiving assistance under this chapter before October 21, 1998, as a result of the implementation of the demonstration program under this subchapter.

(d) Effect on ability to compete for other programs

This subchapter may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

(Sept. 1, 1937, ch. 896, title IV, § 404, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2619.)

§ 1437bbb–4. Program requirements

(a) Applicability of certain provisions

Notwithstanding section 1437bbb–3(a)(1) of this title, the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

(1) The first sentence of paragraph (1) of section 1437a(a) of this title (relating to eligibility of low-income families).

(2) Section 1437n of this title (relating to income eligibility and targeting of assistance).

(3) Paragraph (2) of section 1437a(a) of this title (relating to rental payments for public housing families).

(4) Paragraphs (2) and (3) of section 1437f(*o*) of this title (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

(5) Section 1437p of this title (relating to demolition or disposition of public housing).

(b) Compliance with assistance plan

A participating jurisdiction shall provide assistance using amounts received pursuant to this subchapter in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 1437bbb–5(a)(2) of this title.

(Sept. 1, 1937, ch. 896, title IV, § 405, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2619.)

§ 1437bbb–5. Application

(a) In general

The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this subchapter. An application—

(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this subchapter that—

(A) is developed by the jurisdiction;

(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 1437bbb–3(a)(1) of this title;

(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 1437bbb and 1437bbb–1(a) of this title, respectively;

(4) shall propose standards for measuring performance in using assistance provided pursuant to this subchapter based on the performance standards under subsection (b)(4) of this section;

(5) shall propose the length of the period for participation of the jurisdiction is[1] in the demonstration program under this subchapter;

(6) shall—

(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

(B) in the case of the application of a consortia of units of general local government (as provided under section 1437bbb–8(1)(B) of this title), include the signed consent of the appropriate executive officials of each unit included in the consortia;

(7) shall include information sufficient, in the determination of the Secretary—

(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.];

(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this subchapter;

(9) shall—

[1] So in original.

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of subchapter I of this chapter, in the case of determination under subsection (b)(4)(B) of this section.

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) Review, approval, and performance standards

(1) Review

The Secretary shall review each application for participation in the demonstration program under this subchapter and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this subchapter. If the Secretary determines that the application of a jurisdiction is approvable under this subchapter, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this subchapter, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this subchapter, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) Approval

The Secretary may approve jurisdictions for participation in the demonstration program under this subchapter, but only from among applications that the Secretary has determined under paragraph[2] are approvable under this subchapter and only in accordance with section 1437bbb–1(c) of this title. The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) Agreement

The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this subchapter providing for assistance pursuant to this subchapter for a period in accordance with section 1437bbb–1(b) of this title and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this subchapter. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this subchapter unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) Performance standards

(A) Establishment

The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 1437bbb of this title, which may include standards for—

(i) moving dependent low-income families to economic self-sufficiency;

(ii) reducing the per-family cost of providing housing assistance;

(iii) expanding the stock of affordable housing and housing choices for low-income families;

(iv) improving program management;

(v) increasing the number of homeownership opportunities for low-income families;

(vi) reducing homelessness through providing permanent housing resources;

(vii) reducing geographic concentration of assisted families; and

(viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

(B) Failure to comply

If, at any time during the participation of a jurisdiction in the program under this subchapter, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this subchapter and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10) of this section.

(5) Troubled agencies

The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 1437d(j)(2) of this title as troubled, which may include additional or dif-

[2] So in original. Probably should be preceded by ''this''.

ferent criteria determined by the Secretary to be more appropriate for such agencies.

(c) Status of PHAs

This subchapter may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this subchapter.

(d) PHA plans

In carrying out this subchapter, the Secretary may provide for a streamlined public housing agency plan and planning process under section 1437c–1 of this title for participating jurisdictions.

(Sept. 1, 1937, ch. 896, title IV, § 406, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2620; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(7)(A), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(7)(A). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

§ 1437bbb–6. Training

The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this subchapter and may conduct detailed evaluations of up to 30 jurisdictions for the purpose of identifying replicable program models that are successful at carrying out the purposes of this subchapter.

(Sept. 1, 1937, ch. 896, title IV, § 407, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2623.)

§ 1437bbb–7. Accountability

(a) Maintenance of records

Each participating jurisdiction shall maintain such records as the Secretary may require to—

(1) document the amounts received by the jurisdiction under this chapter and the disposition of such amounts under the demonstration program under this subchapter;

(2) ensure compliance by the jurisdiction with this subchapter; and

(3) evaluate the performance of the jurisdiction under the demonstration program under this subchapter.

(b) Reports

Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

(1) documentation of the use of amounts made available to the jurisdiction under this subchapter;

(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this subchapter; and

(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this subchapter.

(c) Access to documents by Secretary and Comptroller General

The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating jurisdiction that relate to the demonstration program under this subchapter.

(d) Performance review and evaluation

(1) Performance review

Based on the performance standards established under section 1437bbb–5(b)(4) of this title, the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this subchapter.

(2) Status report

Not later than 60 days after the conclusion of the second year of the demonstration program under this subchapter, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 1437bbb of this title.

(Sept. 1, 1937, ch. 896, title IV, § 408, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2623.)

§ 1437bbb–8. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Jurisdiction

The term ''jurisdiction'' means—

(A) a unit of general local government (as such term is defined in section 12704 of this title) that has boundaries, for purposes of carrying out this subchapter, that—

(i) wholly contain the area within which a public housing agency is authorized to operate; and

(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

(B) a consortia of such units of general local government, organized for purposes of this subchapter.

(2) Participating jurisdiction

The term ''participating jurisdiction'' means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 1437bbb–5(b)(3) of this title to receive assistance pursuant to this subchapter for such fiscal year.

(Sept. 1, 1937, ch. 896, title IV, § 409, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2624.)

§ 1437bbb–9. Termination and evaluation

(a) Termination

The demonstration program under this subchapter shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

(b) Evaluation

Not later than 6 months after the termination of the demonstration program under this subchapter, the Secretary shall submit to the Congress a final report, which shall include—

(1) an evaluation[1] the effectiveness of the activities carried out under the demonstration program; and

(2) any findings and recommendations of the Secretary for any appropriate legislative action.

(Sept. 1, 1937, ch. 896, title IV, § 410, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2624.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 1438. Repealed. Pub. L. 105–276, title V, § 582(a)(15), Oct. 21, 1998, 112 Stat. 2644

Section, Pub. L. 93–383, title II, § 209, Aug. 22, 1974, 88 Stat. 669; Pub. L. 98–479, title II, § 201(g), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 102–550, title VI, § 625(b), Oct. 28, 1992, 106 Stat. 3820, related to special low-income housing projects for elderly or disabled families.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1439. Local housing assistance plan

(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions

(1) The Secretary of Housing and Urban Development, upon receiving an application for housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.],[1] section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or,[2] if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

Upon receiving an application for such housing assistance, the Secretary shall assure that funds made available under this section shall be utilized to the maximum extent practicable to meet the needs and goals identified in the unit of local government's housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistance plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reasons therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term ''housing assistance plan'' means a housing assistance plan submitted and approved under section 5304 of this title or, in the case of a unit of general local government not participating under title I of this Act [42 U.S.C. 5301 et seq.], a housing plan approved by the Secretary as meeting the requirements of this section. In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.

(b) Housing assistance applications subject to procedures

The provisions of subsection (a) of this section shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.]

[1] So in original. Probably should be followed by ''of''.

[1] So in original. The comma probably should be ''or''.

[2] So in original. The word ''or'' and the comma probably should not appear.

which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) of this section shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

(c) Repealed. Pub. L. 105–276, title V, § 551(1), Oct. 21, 1998, 112 Stat. 2610

(d) Allocation and reservation of housing assistance funds; purposes; prohibited reallocation of unutilized funds; enumerated uses for retained funds; competition for reservation and obligation of funds

(1)(A)(i) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) of this section the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) of this section in each fiscal year. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1) of this section, the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents. The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c) of title 12. Amounts for tenant-based assistance under section 8(*o*) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)] may not be provided to any public housing agency that has been disqualified from providing such assistance.

(ii) Assistance under section 8(*o*) of the United States Housing Act of 1937 [42 U.S.C. 1437f(*o*)] shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705]. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(*o*) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term ''participating jurisdiction'' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.].

(B) The formula allocation requirements of subparagraph (A) shall not apply to—

(i) assistance that is approved in appropriation Acts for use under sections[3] 9 [42 U.S.C. 1437g], or the rental rehabilitation grant program under section 17,[4] of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545] with respect to such assistance; or

(ii) other assistance referred to in subsection (a) of this section that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, and assistance in support of the property disposition and loan management functions of the Secretary.

(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.

(2) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(3)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) of this section during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

[3] So in original. Probably should be ''section''.

[4] See References in Text note below.

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(iii) housing needs resulting from the settlement of litigation; and

(iv) housing in support of desegregation efforts.

(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) of this section from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1) of this section.

(4)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria for the selection of recipients of assistance. The criteria shall be contained in—

(i) a regulation promulgated by the Secretary after notice and public comment; or

(ii) to the extent authorized by law, a notice published in the Federal Register.

(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

(D) This paragraph shall not apply to assistance referred to in paragraph (4).[4]

(e) Assistance payments for properties in Jefferson County, Texas

From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)] on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in Jefferson County, Texas. If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act [42 U.S.C. 1437f] or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.

(Pub. L. 93–383, title II, §213, Aug. 22, 1974, 88 Stat. 674; Pub. L. 95–128, title II, §207, Oct. 12, 1977, 91 Stat. 1130; Pub. L. 96–153, title II, §204, Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96–399, title II, §202(d), Oct. 8, 1980, 94 Stat. 1629; Pub. L. 97–35, title III, §321(e), Aug. 13, 1981, 95 Stat. 399; Pub. L. 98–181, title II, §201(a)(1), (2), Nov. 30, 1983, 97 Stat. 1175; Pub. L. 98–479, title I, §102(e), Oct. 17, 1984, 98 Stat. 2222; Pub. L. 100–242, title V, §522(a), Feb. 5, 1988, 101 Stat. 1938; Pub. L. 101–235, title I, §§101(a)–(c), (e), 104(a), Dec. 15, 1989, 103 Stat. 1988–1990, 1998; Pub. L. 101–494, §5, Oct. 31, 1990, 104 Stat. 1186; Pub. L. 101–625, title V, §§556, 576, title VIII, §§801(b), 804(e), Nov. 28, 1990, 104 Stat. 4233, 4238, 4303, 4323; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1591; Pub. L. 102–550, title I, §154, Oct. 28, 1992, 106 Stat. 3718; Pub. L. 104–330, title V, §501(d)(3), Oct. 26, 1996, 110 Stat. 4043; Pub. L. 105–276, title V, §§522(b)(2), 551, Oct. 21, 1998, 112 Stat. 2564, 2610.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to this chapter (§1437 et seq.). Section 17 of the United States Housing Act of 1937, referred to in subsec. (d)(1)(B)(i), which was classified to section 1437*o* of this title, was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (a)(1), is section 101 of Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, as amended, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

This Act, referred to in subsec. (a)(5), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in subsec. (b)(2), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 which was classified principally to chapter 48 (§3901 et seq.) of this title, was omitted from the Code pursuant to section 4528 of this title, which terminated the authority to guarantee bonds, debentures, notes, or other obligations under such title IV, after Dec. 31, 1970. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Housing and Urban Development Act of 1970, referred to in subsec. (b)(2), is Pub. L. 91–609, Dec. 31, 1970, 84 Stat. 1770, as amended. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of Title 12.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (d)(1)(A)(ii), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the ''HOME Investments Partnership Act'', is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Paragraph (4), referred to in subsec. (d)(4)(D), was redesignated paragraph (3) of subsec. (d) by Pub. L. 105–276, title V, §551(2)(C), Oct. 21, 1998, 112 Stat. 2610.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the

United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–276, § 551(1), struck out subsec. (c) which read as follows: ''For areas in which an approved local housing assistance plan is not applicable the Secretary shall not approve an application for housing assistance unless he determines that there is a need for such assistance, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall afford the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following receipt of an application by him, to provide comments or information relevant to the determination required to be made by the Secretary under this subsection.''

Subsec. (d)(1)(A)(i). Pub. L. 105–276, § 551(2)(A)(i), inserted at end ''Amounts for tenant-based assistance under section 8(*o*) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance.''

Subsec. (d)(1)(A)(ii). Pub. L. 105–276, § 551(2)(A)(ii), substituted ''8(*o*)'' for ''8(b)(1)'' in two places.

Subsec. (d)(1)(B)(i). Pub. L. 105–276, § 522(b)(2), which directed the amendment of subsec. (d)(1)(B)(ii), by striking out ''or 14'', was executed by striking out ''or 14'' after ''9'' in subsec. (d)(1)(B)(i) to reflect the probable intent of Congress.

Subsec. (d)(2) to (5). Pub. L. 105–276, § 551(2)(B), (C), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: ''Not later than sixty days after approval in an appropriation Act, the Secretary shall allocate from the amounts available for use in nonmetropolitan areas an amount of authority for assistance under section 8(d) of the United States Housing Act of 1937 determined in consultation with the Secretary of Agriculture for use in connection with section 1490m of this title during the fiscal year for which such authority is approved. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of the assistance that is subject to allocation under paragraph (1)(A).''

1996—Subsec. (d)(1)(B)(ii). Pub. L. 104–330 substituted ''public housing'' for ''public and Indian housing''.

1992—Subsec. (e). Pub. L. 102–389 and Pub. L. 102–550 amended subsec. (e) identically, substituting ''Jefferson County, Texas'' for ''the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project''.

1990—Subsec. (a)(1). Pub. L. 101–625, § 801(b), struck out ''section 202 of the Housing Act of 1959'' before '', if the unit''.

Subsec. (a)(5). Pub. L. 101–625, § 576, inserted at end ''In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.''

Subsec. (d)(1)(A). Pub. L. 101–625, § 556, designated existing provisions as cl. (i) and added cl. (ii).

Pub. L. 101–494 inserted after first sentence ''The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) of this section in each fiscal year.''

Subsec. (d)(1)(A)(i). Pub. L. 101–625, § 804(e), which directed amendment of subpar. (A) by inserting after the period at end ''The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c) of title 12.'', was executed by making the insertion after the period at end of cl. (i), to reflect the probable intent of Congress and the intervening amendment by Pub. L. 101–625, § 556. See above.

1989—Subsec. (a)(1). Pub. L. 101–235, § 101(e), struck out ''section 235 or 236 of the National Housing Act,'' before ''section 101 of the Housing and Urban Development Act of 1965''.

Subsec. (d)(1). Pub. L. 101–235, § 101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall allocate assistance referred to in subsection (a) of this section (other than assistance approved in appropriation Acts for use under sections 9, 14, and 17 of the United States Housing Act of 1937) the first time it is available for reservation on the basis of a formula which is contained in a regulation prescribed by the Secretary, and which is based on the relative needs of different States, areas, and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in such regulation. Any amounts allocated to a State or areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts within that same fiscal year.''

Subsec. (d)(2). Pub. L. 101–235, § 101(b), substituted ''of the assistance that is subject to allocation under paragraph (1)(A)'' for ''of such assistance''.

Subsec. (d)(4). Pub. L. 101–235, § 104(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development may not retain more than 15 per centum of the financial assistance which becomes available under programs described in subsection (a)(1) of this section during any fiscal year. Any such financial assistance which is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

''(A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

''(B) support for the needs of the handicapped or for minority enterprise;

''(C) providing for assisted housing as a result of the settlement of litigation;

''(D) small research and demonstration projects;

''(E) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and

''(F) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary, including assistance for infrastructure in connection with the Indian Housing Program.''

Subsec. (d)(5). Pub. L. 101–235, § 101(c), added par. (5).

1988—Subsec. (e). Pub. L. 100–242 added subsec. (e).

1984—Subsec. (d)(2). Pub. L. 98–479 substituted ''section 1490m of this title'' for ''section 1490*l* of this title''.

1983—Subsec. (a)(1). Pub. L. 98–181, § 201(a)(1), inserted provision following subpar. (B) requiring that funds be utilized to meet the needs and goals identified in the unit of local government's housing assistance plan.

Subsec. (d)(1). Pub. L. 98–181, § 201(a)(2), amended par. (1) generally, inserting provision respecting assistance approved in appropriation Acts for sections 9 and 17 of the United States Housing Act of 1937 uses, requiring

allocation of assistance to be based on a formula contained in a regulation, making the relative needs provision applicable to different States, striking out requirement that Secretary assure, in carrying out national housing and community development objectives, that funds available for housing assistance programs be allocated or reserved in accordance with goals described in approved housing assistance plans, and striking out provision respecting allocation of funds for nonmetropolitan areas, which was reenacted as last sentence of par. (2).

Subsec. (d)(2). Pub. L. 98–181, § 201(a)(2), amended par. (2) generally, inserting provision respecting allocation of nonmetropolitan area funds for use in connection with section 1490*l* of this title; reenacting as second sentence provision respecting amount of funds allocated for nonmetropolitan areas, which formerly constituted last sentence of par. (1); and striking out former provision respecting reservation of housing assistance funds for new community developments approved under title IV of the Housing and Urban Development Act of 1968 and title VII of the Housing and Urban Development Act of 1970 for persons of low- and moderate-income.

1981—Subsec. (d)(4). Pub. L. 97–35 added par. (4).

1980—Subsec. (d)(1). Pub. L. 96–399 substituted ''carrying out section 14 of such Act'' for ''modernization of low-income housing projects''.

1979—Subsec. (d)(1). Pub. L. 96–153 inserted provisions limiting allocation of assistance other than that approved in appropriation acts for use on and after Oct. 1, 1979 for modernization of low-income housing projects and inserted provision that any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.

1977—Subsec. (d)(1). Pub. L. 95–128 inserted provision requiring the Secretary to assure that funds available for subsec. (a) housing assistance programs shall be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 5304 of this title and shall be utilized to meet needs reflected in data referred to in the preceding sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 801(b) of Pub. L. 101–625 effective Oct. 1, 1991, with respect to projects approved on or after such date, and subject to issuance of regulations, see section 801(c) of Pub. L. 101–625, set out as a note under section 1701q of Title 12, Banks and Banking.

Amendment by section 801(b) of Pub. L. 101–625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101–507, set out as a note under section 1701q of Title 12.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 104(b) of Pub. L. 101–235 provided that: ''Any assistance made available under section 213(d)(4) of the Housing and Community Development Act of 1974 [42 U.S.C. 1439(d)(4)] before October 1, 1990, or pursuant to a commitment for such assistance entered into before such date, shall be governed by the provisions of section 213(d)(4) as such section existed before the date of the enactment of this Act [Dec. 15, 1989].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§ 1440. State housing finance and development agencies

(a) Statement of purpose; participation by private and nonprofit developers in activities assisted

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b) Determination of eligibility for assistance; definitions

(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a) of this section.

(2) For the purpose of this section—

(A) the term ''State housing finance or State development agency'' means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term ''Secretary'' means the Secretary of Housing and Urban Development.

(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed

(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the

bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a) of this section, except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) of this section may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act [42 U.S.C. 5301 et seq.] or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 33⅓ per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2) of this section, except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(d) Requirements for guaranteed obligations

The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) of this section will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of the Treasury; composition; availability, issuance of obligations to Secretary of the Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of the Treasury of obligations; payment of expenses and charges

(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) of this section and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c) of this section; (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and (E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c) of this section. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) Technical assistance to agencies for planning and execution of development activities

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) Labor standards

All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40: *Provided*, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 3145 of title 40.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies

(1) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(Pub. L. 93–383, title VIII, § 802(a)–(h), Aug. 22, 1974, 88 Stat. 722–724; Pub. L. 98–479, title II, § 203(*l*)(4), Oct. 17, 1984, 98 Stat. 2231.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(1), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (g), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1984—Subsec. (e)(2). Pub. L. 98–479 substituted ''chapter 31 of title 31'' for ''the Second Liberty Bond Act'' and ''such chapter'' for ''that Act''.

CHAPTER 8A—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

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